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Canada Unemployment Insurance  
Commission

General publication



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**UNEMPLOYMENT INSURANCE ACT**

# **Unemployment Insurance Regulations**

**Regulations Made by the Unemployment Insurance Commission on September 26, 1955 and Approved by Order in Council P.C. 1955-1491, September 29, 1955, as amended to January 4, 1959.**

**OFFICE CONSOLIDATION**

*Issued by*

**UNEMPLOYMENT INSURANCE COMMISSION**

**Ottawa, January, 1959**









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# Unemployment Insurance Act—Unemployment Insurance Regulations

P.C. 1955-1491

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 29th day of September, 1955.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL

His Excellency the Governor General in Council, on the recommendation of the Minister of Labour and pursuant to the Unemployment Insurance Act, chapter 50 of the Statutes of 1955, is pleased to approve the annexed "Unemployment Insurance Regulations" made by the Unemployment Insurance Commission on September 26, 1955, and the said Regulations are hereby approved, effective October 2, 1955, with the exception of sections 58, 59, 60 and 63 thereof which shall come into effect on January 1, 1956, accordingly.

His Excellency in Council, on the same recommendation, is pleased hereby to revoke the regulations pertaining to certain employments in agriculture and certain employments in horticulture, approved and established by Order in Council P.C. 1955-1332 of 1st September, 1955.

## SCHEDULE OF AMENDMENTS

Date made by U.I.C.	Approved by Order in Council	Date	Date Published in Canada Gazette	Effective Date
Nov. 4, 1955.....	P.C. 1955-1761	Nov. 23, 1955	Dec. 14, 1955	Nov. 23, 1955
Nov. 22, 1955.....	P.C. 1955-1762	Nov. 23, 1955	Dec. 14, 1955	Nov. 23, 1955
Dec. 20, 1955.....	P.C. 1955-1900	Dec. 29, 1955	Jan. 11, 1956	Jan. 1, 1956
Sept. 18, 1956.....	P.C. 1956-1476	Sept. 27, 1956	Oct. 10, 1956	Oct. 2, 1956
Mar. 27, 1957.....	P.C. 1957-442	Mar. 28, 1957	Apr. 10, 1957	Apr. 1, 1957
Nov. 8, 1957.....	P.C. 1957-1477	Nov. 14, 1957	Nov. 27, 1957	Nov. 17, 1957
Nov. 20, 1957.....	P.C. 1957-1597	Nov. 28, 1957	Dec. 11, 1957	Dec. 1, 1957
Nov. 5, 1958.....	P.C. 1958-1567	Nov. 12, 1958	Nov. 26, 1958	{Nov. 30, 1958 Jan. 4, 1958
Nov. 12, 1958.....	P.C. 1958-1595	Nov. 26, 1958	Dec. 10, 1958	Nov. 30, 1958
Dec. 15, 1958.....	P.C. 1958-1723	Dec. 22, 1958	Jan. 14, 1959	Jan. 4, 1959



## UNEMPLOYMENT INSURANCE REGULATIONS

*Title*

1. These regulations may be cited as the Unemployment Insurance Regulations.

*Interpretation*

2. In these regulations,

- (a) "Act" means the Unemployment Insurance Act;
- (b) "Board" means a Board of Referees constituted under the Act;
- (c) "claimant" means any insured person who applies for, or is in receipt of, benefit under the provisions of the Act and these Regulations;
- (d) "Commission" means the Unemployment Insurance Commission, acting as a corporate body or through its authorized officers, as the case may be;
- (e) "contribution" means a weekly contribution;
- (f) "contribution record" means an unemployment insurance book, an unemployment insurance card, an unemployment insurance contribution statement, an unemployment insurance adjustment form or a certificate of unemployment insurance contributions;
- (g) "employee" means a person, whether insurable or not, who is or has been employed by an employer;
- (h) "local office" means an office established by the Commission in any locality, and includes any office designated as such by the Commission and, in relation to an employer, the nearest local office servicing the area of his place of business and, in relation to any other person, the local office nearest to his residence;
- (i) "pay day" means the day on which any wages or earnings become payable to an employee;
- (j) "pay period" means the period in respect of which wages or earnings are payable to an employee; and
- (k) "separation from employment" or "separation" includes a lay-off of any duration. (Added by P.C. 1958-1567, effective Jan. 4, 1959.)

**Part I****GENERAL****MISCELLANEOUS PROVISIONS***Inspectors*

3. (1) Every officer of the Commission who is performing the duties of auditor or investigator is authorized by the Commission to act as an inspector for the purposes of the Act and these Regulations.

(2) The certificate of appointment of any person authorized to act as inspector shall be on such form as the Commission may determine from time to time.

*Notices by Mail*

4. (1) The Commission or any officer or employee thereof may, for any purpose related to the administration or enforcement of the Act or these Regulations, send by mail any request, notice, demand or any other communication.



(2) For the purpose of the Act and these Regulations and in any proceedings taken thereunder, where an officer or employee of the Commission certifies in writing that any request, notice, demand or communication has been sent by mail to an addressee's last known address, such request, notice, demand or communication shall be deemed, until the contrary is proven, to have been received by the addressee. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *Posters*

5. (1) Every employer who has one or more insured persons in his employ shall from time to time post notices, in such form and containing such information as the Commission may require.

(2) Each such notice shall be kept in such conspicuous position and for such period as the Commission may specify.

#### *Employee Registration Card*

6. Any employer who receives from the Commission a registration card for an employee shall forthwith deliver the card to the employee.

#### *Entries of Particulars—Microfilms*

7. (1) Particulars in the Commission's possession of the employer's or the employee's contributions paid in respect of an insured person, and particulars of employment or unemployment furnished to the Commission by a claimant, either orally or in writing, may be compiled, extracted, posted or translated through symbols by the Commission, by periods which may be other than reported to the Commission, on such form and in such manner as the Commission may from time to time determine.

(2) The information so recorded shall be deemed for the purposes of the Act and these Regulations to be original entries of particulars of such contributions paid or of particulars of employment or unemployment furnished by such claimant, for the period indicated on such compilation, extract, posting or translation.

(3) A print, whether enlarged or not, of a microfilm of any identifying particulars, or of any insurance contribution record or entry of particulars as provided in subsection (1), shall for the purposes of the Act and these Regulations be deemed to be the insurance contribution record or entry of particulars, pertaining to the insured person in respect of whom the record is maintained or the entry made.

### DETERMINATION OF QUESTIONS BY THE COMMISSION AND THE UMPIRE

#### *Procedure*

8. The procedure applicable to the determination of any question referred to in sections 30 and 41 of the Act shall be that provided in sections 9 to 22 of these Regulations.

#### *Application to the Commission*

9. (1) When any such question arises, any person, including a justice or justices of the peace, judge, magistrate or court, by way of reference under section 112 of the Act, or any officer of the Commission, may apply to the Commission for a decision.

(2) Such application shall be made by filing with the Commission, at Ottawa, an application in writing stating the nature of the question

that has arisen and containing particulars satisfactory to the Commission, and shall be in such form as the Commission may from time to time approve or in substantially like form.

(3) Questions concerning the same employer or the same employee may be joined together in one application.

(4) At any time before the Commission has given its decision in respect of any question, an application may be made to join together a further question.

(5) All the questions that were joined together may be the subject of a single decision of the Commission. (Subsections (3), (4) and (5) added by P.C. 1958-1567, effective Jan. 4, 1959.)

10. (1) Any application to the Commission under paragraph (c) of section 30 of the Act shall be made by the claimant at any time within thirty days from the date on which the decision of the insurance officer is communicated to him, or within such further time as the Commission may in any particular case for special reasons allow.

(2) An application to the Commission made by an employer after receipt of a notice of overdue contributions may be made at any time within thirty days from the date he received such notice or within such further time as the Commission may in any particular case for special reasons allow.

#### *Notice of Reference to the Umpire*

11. A reference by the Commission to the Umpire under section 33 of the Act may be made, at any time, by way of notice of reference to the Umpire.

#### *Notice of Appeal to Umpire*

12. An appeal to the Umpire shall be by notice in writing stating the grounds of appeal of the person aggrieved and shall be in such form as the Commission may from time to time approve or in substantially like form.

#### *Copy Sent to Interested Parties*

13. (1) When an application to the Commission, or notice of appeal to the Umpire, has been received or the Commission has decided to refer the question to the Umpire, the Commission shall make available a copy of such application, notice of appeal or notice of reference to every person, other than the applicant, having an immediate interest or appearing to have an immediate interest in the decision of the question, except in the cases specified in section 14.

(2) At the same time the Commission shall fix a date on or before which representations may be filed with the Commission, at Ottawa, for the consideration of the Commission or the Umpire, as the case may be, in making the decision.

14. (1) In any case relating to a question under paragraph (c) of section 30 of the Act, it shall not be necessary for the Commission to make available a copy of the application or of the notice of appeal or reference to the Umpire, to the person alleged to have been the employer of the claimant or the person with whom the claimant had business dealings, unless it is contended that the relationship of the claimant to such person constituted insurable employment and that contributions are payable in his respect.



(2) Where there is a large number of persons having an immediate interest in the decision of the question and it is considered impracticable to make available a copy of the application or of the notice of appeal or reference to the Umpire to each such person, the Commission may inform such persons through other means reasonable in the circumstances.

#### *Filing of Representations and Application for a Hearing*

15. (1) Representations may be filed with the Commission at Ottawa, on or before the date fixed for filing such representations, by persons to whom the Commission has sent a copy of the application, or of the notice of appeal or reference to the Umpire, or by any other person having an immediate interest in the decision of the question.

(2) On or before such date application may be made by the applicant or any other person having an immediate interest in the decision, for a hearing before the Commission or the Umpire, as the case may be.

#### *Submission of Record*

16. After the date fixed by the Commission for filing representations, all material relevant to the question to be decided shall be submitted to the Commission or the Umpire.

#### *Further Investigation*

17. Where such material is not adequate for the determination of the question, the Commission or the Umpire may conduct such further investigation into the matter as is deemed necessary and in such manner as is deemed expedient and the Umpire may for that purpose request the Commission to obtain further particulars in such manner as he may direct.

#### *When a Hearing is to be Granted*

18. (1) Where an application has been made for a hearing by the applicant or other person having an immediate interest in the decision, a hearing shall thereupon be granted.

(2) Where no application for a hearing has been made, the Commission or the Umpire may nevertheless direct that there shall be a hearing.

(3) In no case shall a person be entitled to be paid for travelling or other allowances for the purpose of attending the hearing unless he is required by the Commission or the Umpire to attend the hearing.

#### *Notice of Hearing*

19. In any case where a hearing is to be held, a notice thereof in writing, fixing a date allowing at least fourteen calendar days between the date of receipt of such notice and the date fixed for the hearing, shall be sent by the Commission or by the Registrar of the Umpire to

- (a) the applicant,
- (b) every person who filed representations, and
- (c) such other person or association as the Commission or the Umpire may direct.

(Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

### *Procedure of Hearing*

20. (1) The hearing may be held by the Commission or the Umpire or by a person or persons designated by the Commission or the Umpire for the purpose.

(2) Such person or persons shall submit a detailed report of the hearing for the consideration of the Commission or the Umpire in deciding the question.

(3) The procedure at any hearing shall be determined by the Commission or the Umpire or the person or persons designated to hold a hearing.

### *Decision*

21. (1) The decision of the Commission or the Umpire shall be in writing, and a copy thereof, under the seal of the Commission or of the Registrar of the Umpire shall be sent to the applicant and to any person, having an immediate interest in the decision, who filed representations. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) The Commission may publish the decision or a digest thereof if and as it deems proper.

### *New Facts Discovered*

22. Where in any case new facts are brought to the notice of the Commission or the Umpire, and it appears that the decision should be reconsidered under section 32 of the Act, the provisions of these Regulations relating to the determination of questions, with such modifications as the circumstances may require, shall apply as though a new application had been made.

## **Part II**

### **NATIONAL EMPLOYMENT SERVICE**

#### *Principles of the Service*

23. The Employment Service is free to workers and employers alike, and no officer, clerk or employee of the Commission shall accept any fee or gratuity in relation thereto.

24. The Employment Service is available to all employable workers whether insurable or not, or whether they are claiming benefit or not.

25. The aim of the Employment Service is the organization of the employment market as an integral part of a program for the achievement and maintenance of the highest possible level of employment.

26. The policies of the Employment Service shall be developed and its services operated with the co-operation, where necessary, of other public and private bodies concerned and of representatives of employers and workers.

27. Referrals of workers seeking employment shall be made on the following basis:

- (a) primarily on suitability of skills;



- (b) where there is equality of skills, veterans, in preference, and then on the basis of length of registration for employment; and
- (c) other conditions being equal, on family responsibilities and length of unemployment.

28. Referrals of workers to establishments where an industrial dispute exists shall be made only after the existence of such industrial dispute has been notified to the worker.

### *Duties of the Service*

29. The Employment Service shall assist workers to find suitable employment and employers to find suitable workers, by

- (a) registering applicants for employment, interviewing them when necessary, obtaining from them such information as is necessary to effect proper referrals to employment and assisting them to obtain vocational guidance or vocational training or retraining;
- (b) obtaining from employers precise information on vacancies notified; and
- (c) referring applicants and vacancies from one local office to another in cases where applicants cannot be suitably placed or the vacancies suitably filled by the original office.

30. The Employment Service shall perform, in relation to unemployment insurance, such duties as are necessary in the interests of workers and employers.

31. The Employment Service shall facilitate occupational mobility with a view to adjusting the supply of labour to employment opportunities in the various occupations.

32. The Employment Service shall facilitate geographical mobility with a view to assisting the movement of workers to areas with suitable employment opportunities.

33. The Employment Service shall facilitate temporary transfers of workers from one area to another as a means of meeting temporary local maladjustments in the supply of or the demand for workers.

34. The Employment Service shall facilitate any movement of workers from one country to another which may have been approved by the governments concerned.

35. The Employment Service shall collect and analyse, in co-operation where appropriate with other authorities and with management and trade unions, the fullest available information on the situation of the employment market and its probable evolution, both in Canada as a whole and in the different industries, occupations and areas, and make such information available systematically and promptly to the public authorities, the employers' and workers' organizations concerned, and the general public.

36. The Employment Service shall assist, as necessary, other public and private bodies in social and economic planning calculated to ensure a favourable employment situation.

37. The Employment Service shall facilitate, within the various employment offices, specialization by occupations and by industries, including agriculture or any other branch of activity in which such specialization may be useful.

38. The Employment Service shall endeavour to meet adequately the needs of particular categories of applicants for employment, such as disabled persons and juvenile workers.

#### *Notification of Employer's Requirements*

39. Every employer who requires to engage an employee in insurable employment shall, after twenty-four hours have elapsed since the employment became available, forthwith notify the local office of such requirement.

40. No such notification is required from an employer who
- (a) engages an employee pursuant to his seniority rights, or
  - (b) seeks the employee within the locality in which the employer's office is situated, where that office
    - (i) is located more than twelve miles from the local office, and
    - (ii) directly controls hirings at the establishment at which the employment is available.
41. Such notification shall include
- (a) the place where, and the occupation for which, the employee is required,
  - (b) a description of the duties to be performed,
  - (c) the rate of wages and frequency of payment,
  - (d) the number of hours to be worked each day and each week,
  - (e) the probable duration of the employment,
  - (f) sufficient information to describe the working conditions of the employment, and
  - (g) any incidental information which the Commission may from time to time require.

#### *Reports of Hirings and Separations*

42. A report period for the purposes of sections 43, 44, 46, 47 and 48 shall be the six-month period ending on the last day of February and the six-month period ending on the last day of August, in each year.

43. Every employer who has employed at least one person in insurable employment at any time during a report period shall furnish to the Head Office of the Commission at the time specified in section 47, a report of hirings and separations and other information as required by sections 46 and 48. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

44. No report is required from an employer for any report period
- (a) during which he had
    - (i) one establishment only, and
    - (ii) not more than nine persons employed therein at any one time; or
  - (b) in respect of which he was excepted from such requirements by an officer of the Commission, either as a member of a class or group, or individually. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

45 (1) For the purposes of sections 43, 44, 46 and 48, casual employees shall not be considered.

(2) "Casual employee" means a person who is employed for a particular job or jobs of a casual nature for a period of six working days or less.



46. The report required from the employer by section 43 shall be furnished on such form as the Commission may from time to time determine and shall give the following information for both male and female employees:

- (a) the number of employees actually in his employ at the beginning of the report period;
- (b) the number of whom he has engaged during each month;
- (c) the number who have separated from his employ during each month;
- (d) the number in his employ at the end of each month, and
- (e) any incidental information which the Commission may from time to time require.

47. (1) The employer shall furnish the report semi-annually not later than the fifteenth day of the month that follows immediately after the end of the report period.

(2) An officer of the Commission may, upon application, grant an extension of time for furnishing a report.

48. The report shall be furnished separately in respect of each establishment in which the employer had one or more insurable employees at any one time during the report period, but the employer may furnish one consolidated report in respect of more than one establishment for any report period during which he had more than one establishment,

- (a) where such establishments
  - (i) are situated in the same city or town, and
  - (ii) relate to the same kind of business, or
- (b) where, upon application, authorization to do so is given by an officer of the Commission.

#### *Fee-Charging Employment Agencies*

48A. (1) No person shall, for the purpose of gain or reward from any person who seeks or has secured work or employment, operate an employment agency.

(2) In this section

- (a) "to operate an employment agency" means to, whether on a continuous basis or not, engage in any employment business, activity or endeavour or to carry on any employment agency, bureau, office or service, through which a person
  - (i) procures,
  - (ii) offers or attempts to procure,
  - (iii) holds himself out, by advertisement or any other means, as being able to procure or to assist, whether by providing information or otherwise, in procuring, or
  - (iv) provides facilities for procuring, work or employment for any person, within or without Canada, in any profession, business, trade, services or other means or livelihood; and
- (b) "gain or reward" means any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected.

(3) Subsection (1) does not apply to a person in respect only of his activities in

- (a) procuring work or employment for
  - (i) baby sitters,
  - (ii) registered or practical nurses,
  - (iii) athletes, performers, lecturers or entertainers; or
  - (iv) persons in any other profession, trade or occupation that may be authorized by special or general direction of the Commission; or
- (b) publishing a newspaper or other publication unless wholly or mainly for the purpose of securing work or employment for workers.

(4) No person shall use a name or make, cause to be made or use any sign or other advertising device bearing a name that is likely to lead to the inference that his employment agency, bureau, service or office is carried on or operated by or on behalf of the Government of Canada, the Government of any Province or any other government.

(5) Every person who, for gain or reward, operates an employment agency shall

- (a) keep books, records and accounts adequate for the purpose of enabling an inspector of the Commission to determine with reasonable facility whether this section is being complied with, and
- (b) make his books, records and accounts available for inspection by an inspector of the Commission at any reasonable time during a period of three years from the date of a certificate of inspection delivered to him by an inspector and specifically covering the period to which such books, records and accounts relate; and where the person has no place of business and has not designated another place to the Commission, he shall make them available for inspection at his residence or at any other place designated by the inspector.

(6) Without limiting the generality of subsection (5), the books, records and accounts shall contain at least the following particulars:

- (a) the names and addresses of each person seeking either employment or vocational guidance or other services connected therewith;
- (b) the name and address of each employer to whom each person seeking employment has been referred;
- (c) the name and address of each employer who has employed a person seeking employment through the employment agency;
- (d) the gain or reward demanded, charged, received or collected in in connection with each person;
- (e) the name and address of the person from whom the gain or reward was demanded, charged, received or collected; and
- (f) the nature of the services provided in return therefor.

(7) Every inspector of the Commission may, for the purposes of ascertaining whether this section is being complied with,

- (a) enter at all reasonable times any premises or place that he reasonably suspects have been or are being used in contravention of this section;



- (b) make such examination and inquiry as he thinks necessary for ascertaining whether this section is being complied with in such premises or place; and
- (c) exercise such other powers as may be necessary for carrying this section into effect,

and the occupier of such premises or place and his servants, agents or employees shall furnish to an inspector all information or documents required by him to carry out his inspection. (Section added by P.C. 1958-1567, effective Jan. 4, 1959.)

## Part III

### COVERAGE

#### MISCELLANEOUS PROVISIONS

##### *Predetermination of Earnings (Wage Ceiling)*

49. (1) When the amount of earnings of an employee is material to his insurability, his employer shall, at the time the payment of the first contribution is due, predetermine for the period of the next ensuing twelve months whether the employee will, by reason of the amount of his earnings, be insured or excepted.

(2) Where the earnings of the employee for the period cannot be estimated with any reasonable degree of certainty, the predetermination shall be made as follows:

- (a) if he was employed in the same employment and at the same rate of remuneration by that employer, his actual earnings in the immediately preceding twelve months with the employer shall be taken as the basis of predetermination; or
- (b) if he was not so employed, the actual earnings in the immediately preceding twelve months of persons employed in the same employment and at the same rate of remuneration by that employer or in similar employment and at the same rate by other employers, shall be taken as such basis.

(3) For the purpose of such predetermination, where the rate of remuneration of an employee is a weekly rate, his actual earnings for such twelve-month period shall be considered to be on the basis of fifty-two times his weekly rate.

(4) Where the employer does not make the payment of contribution at the time it is due, he shall be deemed to have predetermined that the employee is excepted.

(5) Where the employee is dissatisfied with such predetermination he may apply to the Commission within six months of that time, for a decision as to whether the predetermination was reasonable.

(6) The Commission may at any time on its own initiative decide that such predetermination was not reasonable.

(7) The earnings of an employee to be taken into account for the purposes of this section are his earnings as determined in these Regulations for contribution purposes. (Subsection (7) added by P.C. 1958-1567, effective Jan. 4, 1959.)

*Remuneration Over \$4,800 a Year*

50. Whenever an insured person is in employment at an hourly, daily, piece, mileage or other rate per unit of work accomplished or service rendered, such employment shall be excepted, if

- (a) his remuneration from such employment is less than his remuneration at any other rate from otherwise excepted employment, in the case where he is employed by two or more employers and his total remuneration exceeds \$4800; or
- (b) his remuneration at any other rate from otherwise excepted employment exceeds \$4800 a year.

*Election to Remain Insured and Revocation*

51. (1) An election to remain insured notwithstanding that the amount of remuneration exceeds \$4800 a year, shall be made on a form determined by the Commission from time to time, within six months from the date on which the insured person's remuneration rendered him excepted, or within such further time as may be approved by an officer of the Commission where he is satisfied that there were reasonable grounds for not making the election in due time; and any contributions paid pending the filing of an election within the time allowed shall be deemed to have been duly paid.

(2) Such an election may be revoked in writing at any time but in such event no further election may be made until the insured person has had thirty contributions subsequent to his revocation.

*Certain Officers of Corporations*

52. (1) The employment by a corporation of any person who is in excepted employment by reason only of subparagraph (ii) of paragraph (n) of section 27 of the Act shall be included in insurable employment where

- (a) his position as an officer of the corporation is not included among the positions designated in subsection (2), or
- (b) his position as an officer of the corporation is included among the positions designated under subsection (2) but the functions and duties of that position are occasional and inconsiderable in relation to the other functions and duties that he performs for the corporation.

(2) The positions designated for the purpose of this section are:

- (a) president,
- (b) vice-president,
- (c) secretary,
- (d) treasurer,
- (e) secretary-treasurer,
- (f) chairman of the Executive Committee,
- (g) chairman of the Board of Directors,
- (h) general manager or
- (i) managing director.

(3) The provisions of this section shall apply

- (a) regardless of the designation given to the position of any officer of a corporation if the functions and duties that he performs are those generally performed by an officer holding a designated position; and



- (b) regardless of the combination, in any one position, of the duties and functions pertaining to more than one designated position. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *Mixed Employment*

53. (1) The whole employment of a person who is employed by the same employer partly in insurable employment and partly in other employment shall be

- (a) insurable, if the insurable portion of the employment amounts in the aggregate to one-quarter or more of the total time he works for the employer; or
- (b) excepted, if the insurable portion amounts to less than one-quarter of such total time.

(2) The inclusion of such employment in insurable or excepted employment, as the case may be, shall continue so long as the above conditions apply but in any case for a period of not less than twelve months.

#### *Employments Insured with Consent of Province*

54. (1) The employment of any person or category of persons who are employed under Her Majesty in right of a province and who are in excepted employment by reason only of such employment, may be included in insurable employment with the consent of the government of that province and the concurrence of the Commission.

(2) Consents and concurrences already given shall, unless revoked at any time in writing, be deemed to be consents and concurrences given under this section.

#### *Employments Insured With Consent of Foreign Governments*

55. (1) The employment of any person or category of persons who are employed under the government of a country other than Canada and who are in excepted employment by reason only of such employment, may be included in insurable employment with the consent of the government of that country and the concurrence of the Commission.

(2) Consents and concurrences already given shall, unless revoked at any time in writing, be deemed to be consents and concurrences given under this section.

#### *Employments Insured with Consent of Hospitals and Charitable Institutions*

56. (1) The employment of any person or categories of persons who are employed in a charitable institution or hospital not carried on for purpose of gain and who are in excepted employment by reason only of such employment, may be included in insurable employment with the consent of such charitable institution or hospital and the concurrence of the Commission.

(2) Consents and concurrences already given shall be deemed to be consents and concurrences given under this section.

(3) Any consent and concurrence under this section shall remain in force for at least twelve months and may be revoked in writing by the Commission at any time without notice and by the charitable institution or hospital only at the end of any calendar year upon giving the Commission a month's notice in writing.

## EMPLOYMENTS MADE INSURABLE

### *Temporary Employees of Charitable Institutions and Hospitals*

57. Every person who is in excepted employment by reason only of being employed in a charitable institution or in a hospital not operated for gain shall with respect thereto be in insurable employment if such employment is on a temporary or casual basis in construction, renovation or repair work. (Section 57 added by P.C. 1955-1762.)

### *Certain Employments in Agriculture*

58. A person's employment shall be insurable, though otherwise excepted as being in agriculture, if it is in connection with any of the following undertakings:

- (a) breeding or raising poultry,
- (b) chick hatching,
- (c) preparation and marketing of poultry,
- (d) egg grading, or
- (e) breeding or raising race horses, saddle horses or light harness horses,

unless the undertaking is carried on as an incidental part of farming operations. (Section 58 effective January 1, 1956.)

### *Certain Employments in Horticulture*

59. A person's employment shall be insurable, though otherwise excepted as being in horticulture, if it is in connection with

- (a) landscape gardening, or
- (b) maintenance of parks, gardens or grounds, whether private, public or commercial,

unless he performs such employment as an incidental part of his employer's vegetable, fruit or general farming operations or while he is ordinarily and mainly employed in his employer's nursery or greenhouse. (Section 59 effective January 1, 1956.)

### *Employment in Forestry*

60. Every person who is in excepted employment by reason only of being employed in forestry shall with respect thereto be in insurable employment unless such employment is inconsiderable within the provisions of sections 75 and 76. (Section 60 effective January 1, 1956.)

### *Skilled Tradesmen Employed on Farms*

61. Every skilled tradesman who is employed as such by the operator of a farm in excess of six days in a period of thirty consecutive days and who is in excepted employment by reason only of such employment, shall in respect thereto be in insurable employment.

### *Weekly-Rated Employees in Printing Trades*

62. (1) Every employee whose rate of remuneration is weekly and whose earnings thereunder exceed in value \$4,800 a year, and who is employed under a contract of service and below the rank of foreman in any of the printing trades, shall in respect thereto be in insurable employment.



(2) For the purposes of this section "printing trades" include any printing operation or process performed by a typographer, photo-engraver, electrotyper, stereotyper, pressman, lithographer, mailer, bookbinder, or by an assistant thereof, in connection with a newspaper, or commercial, specialty or paper products, but does not include operations performed by clerical or office staff.

#### *Transportation on the Great Lakes*

63. Any employment on vessels used in transportation on the Great Lakes and contiguous waters, which would otherwise be excepted by reason of paragraph (q) of section 27 of the Act, shall be insurable. (Section 63 effective January 1, 1956.)

#### *Certain Members of Certain Police Forces*

64. (1) The employment of any person that is excepted by reason only of being employment as a member of the police force of a municipality may, with the consent of the municipality and the concurrence of the Commission, be made insurable employment. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) The employment of any person as a member of the police force of a province shall be treated as if it were excepted by reason only of being employment under Her Majesty in the right of a province.

(3) Any consent and concurrence under subsection (1) shall remain in force for at least twelve months and may be revoked in writing by the Commission at any time without notice and by the municipality only at the end of any calendar year upon giving the Commission a month's notice in writing.

#### *Employment Outside of Canada—Ship or Vessel*

65. (1) Every person shall be included in insurable employment who is employed in a ship or vessel outside of Canada or partly outside of Canada, who is not in insurable employment by reason only of such employment and

- (a) who is domiciled or has a place of residence in Canada; or
- (b) who is domiciled or has a place of residence in any jurisdiction whose government has entered into an agreement with the Government of Canada to establish reciprocal arrangements in matters relating to unemployment insurance for such employment.

(2) For the purposes of this section "employment on a ship or vessel" means

- (a) employment in any ship or vessel of Canadian registry or licence, unless such ship or vessel is regularly employed in voyages between ports outside of Canada, and
  - (i) had been chartered by demise to a person resident outside of Canada; or
  - (ii) the Commission is satisfied that its crew is mainly or wholly domiciled outside of Canada; and
- (b) employment in any ship or vessel other than a ship or vessel of Canadian registry or licence
  - (i) had been chartered by demise to a person resident outside of Canada and which is regularly employed in voyages from a port in Canada; or

- (ii) which as to its management and use is principally controlled in Canada, and the owner or managing owner of which either resides or has a place of business in Canada, and which is regularly employed in voyages from a port in Canada; or
- (iii) in which employment is subject, in matters relating to unemployment insurance, to the provisions of the Act, by virtue of an agreement entered into between the Government of Canada and the government of the jurisdiction in which such ship or vessel is registered.

### *Other Employment Outside of Canada*

66. (1) Every person, other than a person employed in a ship or vessel, as defined in section 65

- (a) who was an insured person immediately before leaving Canada;
- (b) who is employed outside of Canada or partly outside of Canada by an employer resident or having a place of business in Canada, in any employment outside of Canada or partly outside of Canada for the purpose of the execution of some particular work; and
- (c) who is not excepted by virtue of an agreement entered into between the Government of Canada and the government of the jurisdiction in which he is employed,

shall be in insurable employment in respect of his employment outside of Canada, unless otherwise excepted, for the first eight months of such employment, if his services outside of Canada continue or are expected by his employer to continue for a period not exceeding eight months.

(2) For the purposes of this section the period of eight months may be extended in any case or group or class of cases as the Commission may decide.

### EMPLOYMENTS MADE EXCEPTED

#### *Duplication of Coverage Between Two Countries*

67. Every person employed in insurable employment shall be in excepted employment, where

- (a) his services are performed in Canada, outside of Canada or partly in Canada and partly outside of Canada, and contributions are payable in respect of him under
  - (i) the unemployment insurance law of any State of the United States of America, the territories of Alaska and Hawaii or the District of Columbia, by reason of the Agreement between Canada and the United States of America respecting unemployment insurance recited in the Schedule to these Regulations; or
  - (ii) the Railroad Unemployment Insurance Act of the United States of America; or
- (b) his place of residence is in Canada and contributions are payable in respect of him under the unemployment insurance law of a foreign country with respect to all his earnings received for services performed outside of Canada, but in such event contributions shall be payable in respect of earnings for services performed in Canada; or



- (c) his place of residence is outside of Canada and contributions are payable in respect of him under the unemployment insurance law of a foreign country with respect to all his earnings received for service performed in Canada.

*Certain Employments by the Government of Canada*

68. Every person who is employed in insurable employment under Her Majesty in right of Canada in any of the following employments, shall in respect thereto be included in excepted employment:

- (a) Employment of any person
  - (i) as a vetcraft employee (poppy worker);
  - (ii) as part-time assistant migratory bird warden or sanctuary caretaker;
  - (iii) on a temporary basis in connection with the census of Canada as enumerator, interpreter, guide, field supervisor or census commissioner;
  - (iv) as a postmaster in revenue post offices grades 1 to 30 inclusive;
  - (v) for not more than two hours a day; or
  - (vi) for not more than one day a week;
- (b) Employment of any person whose livelihood is not ordinarily derived from insurable employment and who is employed
  - (i) in seasonal or temporary employment, if it is known that the employment will be for a period not exceeding twenty weeks in the twelve-month period ending March 31 in any year;
  - (ii) in field parties;
  - (iii) as a fur inspector;
  - (iv) in fish hatcheries, oyster culture, building fishways or clearing rivers, or as fishery guardian, fishery patrolman or on protection boats; or
  - (v) by the International Halibut Commission or the International Pacific Salmon Fisheries Commission;
- (c) Temporary employment under the Department of National Defence in a mess, canteen or other institute of the Canadian Forces maintained by non-public funds, of any member of the Forces or the wife or dependent children of a member of the Forces.

*Municipal Relief Employment*

69. (1) Every person shall be included in excepted employment, who is employed in insurable employment under a municipal authority in any of the following employments:

- (a) employment where the remuneration is solely by credit on relief or taxes;
- (b) employment where the work performed for the municipal authority is done as a condition precedent to the grant of cash or voucher relief; or
- (c) employment where the services performed for the municipal authority are pursuant to a duty imposed by the law of the province.

- (2) This section does not apply
  - (a) where the person is employed on public works or undertakings arranged for the purpose of removing persons from the relief rolls; and
  - (b) the rates of remuneration and conditions of employment on such public works or undertakings are similar to the rates of remuneration and conditions of employment on regular employment by such municipal authority.

### *Permanent Employments*

70. (1) Subject to subsection (5) the employment of a person who

- (a) is employed in insurable employment under Her Majesty in right of Canada or a province or under any municipal or public authority, and
- (b) has been certified by his employer and to the satisfaction of the Commission that he is employed in permanent employment,

shall, upon certification, be included in excepted employment in respect of such employment.

(2) In this section a person is employed in permanent employment, who

- (a) has been employed by the employer for at least two consecutive years in a position or positions requiring full time service for not less than eight months in each year; and
- (b) is expected to continue in such a position or positions with that employer for a period that is indeterminate except for retirement on account of age.

(3) For the purpose of determining permanent employment, any employment occurring prior to the coming into force of this section shall be included.

(4) Every person, other than a person employed by a designated Crown Agency, who, under section 70, immediately before the coming into force of this section, was included in excepted employment shall be deemed to have been certified, to the satisfaction of the Commission, in the calendar week in which this section comes into force.

(5) No person employed

- (a) by a designated Crown Agency, or
  - (b) in connection with a public utility,
- shall be certified under this section.

(6) In this section

- (a) "designated Crown Agency" means
  - (i) the Canadian Broadcasting Corporation;
  - (ii) the Canadian Commercial Corporation;
  - (iii) the Canadian Overseas Telecommunication Corporation;
  - (iv) the Canadian Wheat Board;
  - (v) Crown Assets Disposal Corporation; and
  - (vi) any company, all the issued shares of capital stock of which are owned by or held in trust for Her Majesty in right of Canada, except shares necessary to qualify other persons as directors;



- (b) "employment in connection with a public utility" includes all employment that is considered by the Commission to be reasonably necessary or incidental to the operation of the public utility; and
- (c) "public utility" includes any gas, electric, heat, light or power works, telephone line, transportation system, works for the transmission of gas or electrical power or energy and such other works, lines or systems as may be declared by the Commission to be public utilities for the purpose of this section. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *Insurance Agents*

71. (1) Every person who is employed in insurable employment as an insurance agent shall be included in excepted employment in respect of his employment as such agent.

(2) For the purposes of this section "insurance agent" includes a person who, for compensation, solicits contracts of insurance on behalf of any insurer or transmits, for a person other than himself, an application for or a contract of insurance to or from such insurer, or offers or acts or assumes to act in the negotiation of such contracts, but does not include any officer or salaried employee of an insurer.

#### *Securities Salesmen*

72. (1) Every person who is employed in insurable employment as a securities salesman shall be included in excepted employment in respect of his employment as such salesman.

(2) For the purposes of this section, "securities salesman" includes a person who is engaged or employed in the sale or purchase, or in the execution of orders for the sale or purchase, of bonds, shares or stocks solely and exclusively upon a commission basis, but does not include any officer or salaried employee of an investment dealer, broker or agent.

#### *Real Estate Agents*

73. (1) Every person who is employed in insurable employment as a real estate agent shall be included in excepted employment in respect of his employment as such agent.

(2) For the purposes of this section, "real estate agent" includes a person who is engaged or employed in the sale or purchase of real estate solely and exclusively upon a commission basis, but does not include any officer or salaried employee of a real estate broker or agent.

#### *Truckers*

74. (1) Every person who is employed in insurable employment as a trucker shall be included in excepted employment in respect of his employment as a trucker.

(2) For the purposes of this section, "trucker" means a person who, for remuneration, contracts for the conveyance of things by means of a motor-driven vehicle and who is the owner of such vehicle either absolutely, partly or conditionally.

*Inconsiderable Employment—Written Declaration Required*

75. (1) Any person who, at the time of hiring, lodges with his employer a declaration in writing that his livelihood is not ordinarily derived from insurable employment, shall be included in excepted employment in respect of the following employments:

- (a) employment at a fixed annual rate of remuneration not exceeding \$600;
- (b) part-time employment not exceeding twenty-four hours a week;
- (c) temporary employment during the period from December 1st to December 31st, both dates inclusive, in any year;
- (d) employment for a period not exceeding thirty consecutive days
  - (i) in seasonal cleaning of premises;
  - (ii) in connection with circuses, carnivals, exhibitions, fairs or race meetings;
  - (iii) as a substitute, during the absence of a regular employee;
- (e) employment either for not more than twenty weeks in any calendar year or for not more than ten days in any period of thirty days
  - (i) in fruit packing or in connection with a winery or with a factory for poultry packing or for canning or processing food products; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
  - (ii) in connection with any census enumeration;
  - (iii) by a rural municipal authority or a rural local authority; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
  - (iv) by a rural irrigation district or water users' community;
  - (v) in a rural area, by a telephone, electric power or oil or gas pipeline company or system;
  - (vi) in a seasonal occupation in transportation by water upon inland waters and in stevedoring including deep-sea ports;
  - (vii) in a seasonal occupation in any industry that is seasonal and that does not ordinarily extend over more than twenty weeks in a year;
  - (viii) in seasonal or temporary employment in forestry or in the insurable parts of agriculture and horticulture;
  - (ix) in any occupation carried out in the lumbering and logging industry including cooks and clerical and other workers directly employed at the scene of the woods operations.

(2) For the purposes of this section "lumbering and logging" means the cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming and processing at the scene of woods operations of any logs or timber, including cord wood, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves.

(3) Where the employment of a person to whom paragraph (e) of subsection (1) applies exceeds twenty weeks in any calendar year, he shall be deemed to be in insurable employment in respect of such employment from the time it exceeds such number of weeks and shall continue in insurable employment for the remainder of the calendar year so long as he remains so employed. (Added by P.C. 1958-1567, effective Jan. 4, 1959.)



*Inconsiderable Employment—No Written Declaration*

76. Any person employed in any of the following employments shall be in excepted employment in respect thereto:

- (a) part-time employment for not more than twenty-four hours a week of a person who is a full-time enrolled student of a day school, college or university;
- (b) employment of any person qualified for the receipt of an allowance under section 4 of the War Veterans Allowance Act, the earnings from which employment are exempt as income for the purpose of entitlement to such allowance, unless the Commission in any particular case or class of cases directs that the provisions of this paragraph shall not apply;
- (c) employment of any person as a compiler of voters' lists, enumerator, poll clerk, returning officer or deputy returning officer, in connection with federal, provincial or municipal elections;
- (d) employment of any person as a janitor, caretaker or cleaner, where
  - (i) the value of the remuneration does not exceed a daily average of two dollars; or
  - (ii) the employment does not exceed four hours a day and is carried on outside the ordinary business hours of the employer;
- (e) employment of any person who is paid on the basis of a sum certain for each appearance as a radio, television or film artist or performer; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
- (f) casual employment of any person for not more than three days in connection with travelling circuses, carnivals, exhibitions, fairs or race meetings;
- (g) casual employment as a forest firefighter for periods not exceeding ten days in any period of thirty days;
- (h) employment North of the 60th parallel of latitude of any person whose livelihood is not ordinarily derived from insurable employment; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
- (i) employment of any person whose livelihood is not ordinarily derived from insurable employment and who is employed for not more than ten days in any period of thirty days,
  - (i) in connection with sleet, snow or ice removal;
  - (ii) at a grain elevator;
  - (iii) by a surveyor; or
  - (iv) as a stevedore at ports in Newfoundland or in the Maritime Provinces, including the Magdalen Islands, other than at the following ports:
    - (a) Saint John and Dalhousie, in the Province of New Brunswick;
    - (b) Halifax and Sydney, in the Province of Nova Scotia; and
    - (c) St. John's, Botwood, Port Aux Basques and Corner Brook, in the Province of Newfoundland.

- (j) casual employment of any person whose livelihood is not ordinarily derived from insurable employment and who is employed in the repair or maintenance of roads by a rural municipal authority or a rural local authority for not more than thirty days in any calendar year; (Added by P.C. 1958-1567, effective Jan. 4, 1959.)
- (k) employment of any person who is employed as a musician on a part time basis by an employer for a period not exceeding an aggregate of twenty-four hours in a calendar week. (Added by P.C. 1958-1567, effective Jan. 4, 1959.)

## Part IV

### CONTRIBUTIONS

#### GENERAL EMPLOYER REQUIREMENTS

##### *Employer's Registration*

77. (1) Every employer shall, within three days after an insured person commences to render services for him in insurable employment, apply in writing to the Commission for a registration number and a licence to purchase unemployment insurance stamps, unless

- (a) he is already registered other than as an employer of insured fishermen, or
- (b) he is a casual employer and has, not later than the day on which the separation from employment of his insured employee occurs,
  - (i) completed an application to purchase unemployment insurance stamps as a casual employer, and
  - (ii) submitted it with the appropriate payment to a postmaster authorized by the Post Office Department.

(2) In this section "casual employer" means an employer who employs a person in insurable employment for work not related to the employer's ordinary business, for a period exceeding in the aggregate six days within any period of thirty consecutive days.

(3) Every employer shall have in his possession and make available for inspection by an inspector his licence to purchase stamps, unless he proves

- (a) that he is exempted by being an employer mentioned in paragraph (b) of subsection (1) or
- (b) that he has, within the period mentioned in subsection (1), made an application to the Commission for such a licence and that he has not received it. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

##### *More Than One Employer in a Week*

78. (1) Where an insured person is employed by more than one employer in a week, each employer, unless an agreement is made under this section, shall pay contributions in respect of the insured person on the basis of the remuneration payable to him by each of them respectively.

(2) Where an insured person is ordinarily employed each week by two or more employers, the employers of such person may make an agreement as to which employer shall pay the required contributions on the



basis of the total remuneration payable to that person by all the employers; a copy of the agreement shall be given to each employer and to the local office.

(3) Where such an agreement has been entered into, an employer who pays the contributions may deduct the contributions payable on behalf of the insured person from the remuneration payable by him to that person and he may, if so provided in the agreement, be reimbursed on a pro-rata basis by the other employer or employers.

*Records to be Kept and Made Available for Inspection*

79. (1) Every employer shall keep books, records, accounts and other documents adequate to enable an inspector, without having to resort to the provisions of section 130, to determine with reasonable facility, in respect of any employee, what contributions, for what period and on what date they were payable and on what date they were paid by that employer.

(2) Without limiting the generality of subsection (1),

(a) the books, records and accounts shall contain the following particulars:

- (i) the name and address of each employee;
- (ii) the insurance number of each insured person;
- (iii) the actual weeks in which work is done by each employee or for which remuneration is payable, and the number of weeks by pay periods;
- (iv) the gross remuneration payable to each employee for each pay period, indicating separately the value of any non-pecuniary or partly pecuniary remuneration payable, and the pay-day for each employee;
- (v) for each pay period, the amount of expense incurred and the value of any consideration supplied by each employee under section 85;
- (vi) for each pay period, all deductions from the gross remuneration payable to each insured person, representing the employee's share of unemployment insurance contributions;
- (vii) the insurance number and name of every insured person in respect of whom contributions are not being made by reason that contributions are being made in respect of him by another employer under an agreement as provided in section 78, and the name and address of every other employer;
- (viii) the insurance number and name of every person in respect of whom contributions are not being made because he is in excepted employment by reason only of the amount of his earnings from all his employers, and the name and address of every other employer; and
- (ix) the number of hours worked by each employee, the nature of his work and a record that he is a fulltime enrolled student of a day school, college or university, if it is sought to establish that the employee is in excepted employment by virtue of paragraph (a) of section 76; and

(b) the documents shall include

- (i) a duplicate of each form of requisition for unemployment insurance stamp meter impressions completed by him or his authorized representative and presented to an authorized postmaster;

- (ii) receipts obtained under section 124 for the delivery of any contribution record pursuant to these regulations;
- (iii) duplicate of each form of inventory of unemployment insurance stamps made by an inspector and signed by him and the employer or his representative showing, as of the date thereof, the amount of unemployment insurance stamps lawfully in the possession of the employer and of unemployment insurance stamp meter impressions lawfully to his credit;
- (iv) in the case of an employer paying contributions by the bulk payment method, other than an employer paying contributions pursuant to section 137, a copy of each certificate of contributions delivered to the insured person by the employer;
- (v) each written declaration lodged under section 75;
- (vi) a copy of each agreement under section 78, reached between the employer and other employers, whereby only one employer pays contributions on the basis of the total remuneration payable to an insured person by all the employers;
- (vii) a copy of each form of election to remain insured signed by an employee; and
- (viii) a copy of each Certificate of Inspection delivered to the employer by an inspector of the Commission showing the date of the inspection and the pay periods covered by the inspection.

(3) Every employer shall maintain his books, records, accounts and documents in such a manner that an inspector may, without having to resort to the provisions of section 130, determine with reasonable facility in respect of any employee, what contributions, for what periods and on what date they were payable by that employer.

(4) The period during which the books, records, accounts and documents are required to be kept is as follows:

- (a) in respect of the books, records and accounts described in paragraph (a) of subsection (2) and the documents described in subparagraphs (i) to (iv) inclusive of paragraph (b) of that subsection, three years from the date of the Certificate of Inspection specifically covering the period to which the books, records, accounts and documents relate;
- (b) in respect of the documents described in subparagraphs (v) to (vii) inclusive of paragraph (b) of subsection (2), three years from the date of the Certificate of Inspection specifically covering the inspection period within which falls the last effective use of each document; and
- (c) in respect of each Certificate of Inspection, five years from the date of each Certificate.

(5) Every employer shall make available for inspection by an inspector of the Commission his books, records, accounts and documents, at any reasonable time requested by the Inspector during the respective periods mentioned in subsection (4); and where the employer has no place of business and has not designated another place to the Commission, he shall make them available for inspection at his residence or at any other place designated by the inspector.

(6) Every person for whom any other person is considered by the inspector, on reasonable grounds to perform or to have performed services



for the purpose of gain under any contractual arrangement whatever shall make available for inspection, subject to the same conditions as in this section, all the books, records, accounts and documents requested by the inspector. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

### *Obtaining Contribution Records*

80. (1) As soon as an insured person begins to render services for an employer, the employer shall obtain forthwith that person's contribution records, or, if he has no contribution records, ascertain from him his insurance number.

(2) That person shall forthwith, upon being taken into insurable employment, deliver his contribution records or give his insurance number, as the case may be, to the employer.

(3) Where the employer has been unable to obtain the insured person's contribution records, the employer shall

- (a) whether or not he has ascertained that person's insurance number, apply as provided in subsection (4) to the local office for an insurance book for that person; and
- (b) where he is making contributions by means of the bulk payment method, apply to the local office for an insurance number for that person where for any reason he did not ascertain it.

(4) Such application shall be made by the employer, in such form as may be approved by the Commission, within three days after the insured person begins to render services, and where that person's separation from employment occurs during that period, the employer shall make the application not later than the last day on which that person performs services. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

81. (1) Every employer paying contributions by means of stamps or meter device shall, at all times an insured person is employed by him in insurable employment, have in his possession a current insurance book for that person.

(2) Every employer paying contributions by means of the bulk payment method, shall

- (a) obtain from the Commission or have approved by it, contribution statement forms and forms of certificate of contributions paid; and
- (b) prior to separation from employment of an insured person for whom he has no insurance book, apply to the local office for an insurance book and deliver it to him at the time of separation.

82. Any employer may, where authorized by the Commission, obtain insurance cards for the purpose of paying contributions under the conditions set forth in these Regulations.

83. Any employer may, where authorized by the Commission, obtain adjustment forms for the payment of certain contributions subject to the conditions set forth in these Regulations.

## DETERMINATION OF CONTRIBUTIONS PAYABLE

### *General*

84. Contributions payable under the Act and these Regulations are determined on the basis of earnings according to the table in the Act and the provisions of these Regulations.

*Earnings*

85. (1) The earnings which are taken into account for the purpose of determining contributions payable are the total amount of an insured person's remuneration whether pecuniary, non-pecuniary or partly pecuniary, after deducting therefrom the expenses incurred by the employee for the direct purpose of earning such remuneration and the value of any consideration supplied by the employee.

(2) Where an employee is absent on account of illness, injury or quarantine and receives from his employer his ordinary wages or an amount equivalent thereto, such amount shall be treated as earnings.

(3) Where the value of the expenses or the consideration has not been fixed by agreement between the employer and the insured person at a reasonable amount, the Commission may determine the value of such expenses or consideration.

*Room and Board*

86. (1) Where an insured person's remuneration is not pecuniary or is only partly pecuniary and the whole or part of such non-pecuniary remuneration consists in his being furnished with room and board or room or board, the value of such room and board or room or board shall be included in determining the person's earnings for contribution purposes.

(2) Such valuation shall be fixed by agreement between the employer and the insured person at a reasonable rate having regard to all the circumstances. It may be based on the valuation which is acceptable for workmen's compensation or income tax purposes, but where the insured person does not agree with the valuation made by the employer or where, in the opinion of an inspector of the Commission, such valuation has not been fixed at a reasonable rate, such valuation shall be determined by the Commission. (Subsection 2 amended by P.C. 1955-1900.)

*Living Quarters*

87. (1) Where an insured person's remuneration is not pecuniary or is only partly pecuniary and the whole or part of such non-pecuniary remuneration consists in his being furnished with living quarters, the rental value of such living quarters shall be included in determining the person's earnings for contribution purposes.

(2) Where light, heat, telephone or other considerations are supplied by the employer with such living quarters as part of such remuneration, their value shall be included in computing the rental value of such living quarters.

(3) Where the value of such living quarters is not fixed by agreement between the employer and the insured person, it shall be computed on the rental value of similar living quarters in the vicinity or district, or if there are no such similar living quarters in the vicinity or district, or if in the opinion of the Commission the value has not been fixed at a reasonable amount, then the value shall be determined by the Commission.

*Other Consideration*

88. (1) Where an insured person's remuneration is not pecuniary or is only partly pecuniary and the whole or part of such non-pecuniary remuneration consists in his being furnished with any consideration other than



room and board or room or board or living quarters, the value of such consideration shall be included in determining the person's earnings for contribution purposes.

(2) Where the value of such consideration is not fixed by agreement between the employer and the insured person or if in the opinion of the Commission it has not been fixed at a reasonable amount, it shall be determined by the Commission, having regard to all of the circumstances.

#### *Vocational Training*

89. Where any employee is given vocational training on the job and receives an allowance under a government training plan or from the Department of Veterans Affairs through his employer in addition to his wages, the earnings of such employee shall be deemed to be the aggregate of his wages and such allowance.

#### *Piece Work*

90. (1) Where an insured person is paid by the piece or on some similar basis, his weekly earnings for any period of four weeks may be determined by his average weekly earnings in the previous four weeks.

(2) If he was not engaged on the same work during the previous four weeks, his weekly earnings shall be deemed to be equal to those payable to other persons doing similar work during the previous four weeks.

#### *Commission or Share of Profits*

91. (1) Where an insured person is paid wholly or partly by commission or by a share of profits but not on the basis of a drawing account and his earnings vary considerably from one pay period to another, his earnings for each of any four consecutive pay periods, during which he actually receives any earnings may, for contribution purposes, be determined by the pay period average of the earnings which he actually received in the immediately preceding four consecutive pay periods during which he was employed by the same employer for the same work and on the same basis.

(2) One such determination only may be made in respect of any insured person in any four consecutive pay periods.

#### *Drawing Accounts*

92. (1) Where an insured person's remuneration is payable by sums debited to a drawing account, his earnings shall, for the purposes of contributions, be deemed to be the sums so debited to his account. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) Where such sums are debited at intervals of more than a month, the earnings for a month shall be his average monthly debits for the period of three months immediately preceding the date on which contributions are payable.

(3) For the purposes of allocation of earnings and contributions payable, where the pay period of such person is in excess of a month, it shall be deemed to be monthly.

#### *Separation*

93. Upon separation, if the insured person's remuneration for the current pay period cannot be ascertained with accuracy, his earnings for such period shall, for the purpose of contributions only, be reasonably estimated by the employer.

### ALLOCATION OF EARNINGS AND CONTRIBUTIONS PAYABLE

94. (1) Sections 95 to 99 contain the rules for the purpose of the payment and determination of the number of contributions payable and for the allocation to calendar weeks of earnings and contributions payable in respect of pay periods.

(2) For the purposes of sections 95 to 99,

- (a) "calendar week" means a week as defined in section 2(m) of the Act;
- (b) "pay week" means a period of seven consecutive days that ends, or any one of two or more contiguous such periods the last of which ends, on the employer's payroll ending date; and
- (c) a period for which remuneration is payable shall be deemed a period in which work is done.

#### *Where Pay Period is a Pay Week*

95. Where the pay period is a pay week, the earnings of that pay week shall be allocated to, and the contributions shall be payable in respect of, the calendar week in which the ending date of the pay week falls or in which separation from employment occurs.

#### *Where the Pay Period is a Multiple of a Pay Week*

96. Where the pay period is a multiple of a pay week, the earnings during the pay period shall be allocated and the contributions payable in respect of the pay period shall be recorded as follows:

- (a) where work is done in each pay week, firstly to the calendar week in which the pay period ends or separation occurs, and then to the immediately preceding calendar weeks; and
- (b) where work is not done in each pay week, firstly to the calendar week in which the pay period ends or separation occurs, and then to the immediately preceding calendar weeks, the number of contributions payable being equal to the number of pay weeks in which work was done.

#### *Where Pay Period is Semi-Monthly or Monthly*

97. (1) Where the pay period is semi-monthly or monthly and the insured person works in each calendar week that falls completely within the pay period and, in the case of a calendar week not falling completely within the pay period, works in that portion thereof that falls within the pay period, the earnings and contributions payable shall be dealt with as follows:

- (a) the earnings for the pay period shall be taken as the basis for determining the rate of contributions payable according to the table hereunder, the rates for a semi-monthly pay period being the amount shown in the table and the rates for a monthly pay period being such amounts doubled, and the contributions payable shall be recorded in respect of the pay period.



<i>Range of Earnings</i>	<i>Semi-Monthly Rates</i>
Less than \$19.50.....	\$ .18
\$19.50 and under \$ 32.50.....	.35
32.50 " " 45.50.....	.52
45.50 " " 58.50.....	.65
58.50 " " 71.50.....	.78
71.50 " " 84.50.....	.91
84.50 " " 97.50.....	1.04
97.50 " " 110.50.....	1.13
110.50 " " 123.50.....	1.21
123.50 and over.....	1.30

(b) where semi-monthly stamps or meter impressions are not or cannot be used, the earnings for the pay period shall be allocated equally among the calendar weeks ending in the pay period and the calendar week in which separation occurs, if it is not ending in the pay period, and the contributions shall be recorded in respect of these calendar weeks.

(2) Where the insured person does not work in each calendar week that falls completely within the pay period or, in the case of a calendar week not falling completely within the pay period, in each portion thereof that is within the pay period, the earnings in the pay period shall be allocated equally among such calendar weeks or portion thereof, in which work was done, but not exceeding four, and an equal number of contributions shall be recorded, first for the calendar week in which the pay period ends or in which separation occurs and then for the immediately preceding calendar weeks.

#### *Approval of Substitute Rules*

98. In any case or class of cases not coming within the provisions of section 95 to section 97 or where it is the opinion of the Commission, or it is contended by an employer that it is not possible to apply such provisions, the Commission may, on its own initiative or on the request of the employer, approve another method or methods for allocation of earnings and contributions payable and the determination of contributions payable; any such other method shall have effect for that employer or for all employers, as the case may be, as if it were specifically prescribed by these Regulations and the Commission may at any time rescind such approval.

#### *Overlapping Work*

99. (1) Where the period for which an insured person works begins in one pay period, and extends into another pay period, he shall in respect of the period of work be treated as having worked in only one such pay period as may be determined by the employer.

(2) Where the overlapping occurs from one week to the next, the same rule shall apply.

### **PAYMENT OF CONTRIBUTIONS**

#### *Methods of Payment*

100. Except in respect of

(a) employment in stevedoring at designated ports;

- (b) contributions which are not paid at the times required;
- (c) contributions computed at three per cent of the total remuneration; and
- (d) contributions owing as determined under section 96(5) of the Act, every employer shall pay contributions by any one of the following methods:
  - (i) by affixing an unemployment insurance stamp or stamps of the requisite denomination in the insured person's insurance book, or on his insurance card or an adjustment form where so authorized by the Commission;
  - (ii) by means of a metering device, where authorized by the Post Office Department, impressing a stamp or stamps of the requisite denomination in the insured person's insurance book, or on his insurance card or an adjustment form where so authorized by the Commission;
  - (iii) by the bulk payment method, where so authorized by the Commission; or
  - (iv) by remittance in cash, a certified cheque, money order, bank order or draft made payable to the Receiver General of Canada, the details of such remittance being indicated on an adjustment form.

### *Stamps*

101. (1) Unemployment insurance stamps to be used in payment of contributions shall be made in accordance with a design approved by the Commission and in such denominations as the Commission may from time to time fix, and such design shall not be used except for the purposes approved by the Commission.

(2) No person shall keep for sale, offer for sale, purchase for sale or sell any unused unemployment insurance stamps, other than a postmaster authorized by the Post Office Department, or a person authorized in writing by the Commission, at such place and subject to such conditions as may be determined by the Commission.

(3) Unused unemployment insurance stamps shall be obtained only by an employer or his authorized representative from a person authorized to sell such stamps, upon production of the employer's licence (unless he is excepted from the requirement of obtaining a licence under section 77), and upon a completion of a form of requisition for unemployment insurance stamps approved from time to time by the Commission.

(4) No employer shall use unemployment insurance stamps to pay contributions in respect of any insured person other than his own employees, except by authority of the Commission.

(5) No person other than an employer or his authorized representative shall have in his possession unused unemployment insurance stamps.

(6) No person shall have in his possession any used unemployment insurance stamps except while they are lawfully affixed to insurance contribution records and such records are in his possession in accordance with these Regulations.

### *Metering Devices*

102. (1) No employer shall use a metering device for the payment of contributions, unless he has been authorized by the Post Office Department



acting for the Commission to use such device and such authorization has not been revoked.

(2) The design on the impression die in all metering devices used for the payment of contributions shall be a design approved by the Commission.

(3) Such design shall not be used by any person for any other purpose without the written authorization of the Commission.

(4) Every metering device used for the payment of contributions shall be used in such manner and subject to such conditions as the Post Office Department or the Commission may from time to time determine, and any officer of the Commission or the Post Office Department shall be permitted to inspect such metering device and the impression die used in connection therewith at any reasonable time.

(5) An employer who is authorized to pay contributions by means of a metering device shall not use such metering device to pay contributions in respect of any insured persons other than his own employees, except by authority of the Commission.

(6) No employer shall use a metering device for the payment of contributions until he has paid to the Post Office Department the amount at which the metering device is to be set, nor shall he use a metering device for the payment of contributions exceeding in the aggregate the amount at which the device has been set.

(7) Any impression die used in a metering device for payment of contributions shall be delivered to any authorized officer of the Post Office Department or of the Commission on demand made after revocation of the authority granted for use of such metering device or at any time if no such authority has been granted.

(8) Every employer using a metering device shall notify the Post Office Department as soon as any defect occurs in the operation of the metering device and shall, upon request, deliver such metering device to the Post Office Department in the same condition as when the defect was first noticed, with full details in writing of any insurance books or cards or adjustment forms in which stamps have been imperfectly or incorrectly impressed.

(9) No repair or alteration shall be made to any metering device except by persons authorized by the Post Office Department or the Commission, nor shall any person except such authorized persons unlock or break any lock or seal placed on a metering device.

### *Bulk Payment*

103. (1) An employer may submit to the Commission a proposal for payment at stated periods of aggregate contributions by the bulk payment method.

(2) Such proposal shall provide for

(a) maintenance of contribution statements in a form approved by the Commission, showing in respect of each insured person, as the Commission may from time to time direct,

(i) his name and insurance number;

(ii) the number of pay weeks or calendar weeks he worked by pay period; and

(iii) the amount of employee contributions by such pay periods;

- (b) furnishing the Commission, at the end of such period as the Commission may determine, with a certified contribution statement for that period for each insured person who has been in his employ during that period;
  - (c) placing in the insurance book of an insured person on separation from employment a certificate of contributions paid by him or on his behalf during the year; and
  - (d) generally furnishing any other information that the Commission may from time to time require.
- (3) The Commission may require as a condition precedent to approval of any such proposal,
- (a) an undertaking satisfactory to the Commission that the employer will carry out the terms of the proposal;
  - (b) a deposit in a sum equal to the estimated amount of contribution payable by the employer during a period to be fixed by the Commission, which deposit shall be deemed to be a prepayment of contributions and may be applied by the Commission at any time in payment of contributions payable; and
  - (c) such other provisions in the proposal as the Commission may from time to time determine.
- (4) Every employer whose proposal is approved by the Commission shall pay contributions by bulk payment in respect of the insured persons in his employ as indicated in the Commission's approval.
- (5) The Commission may rescind its approval at any time.

#### *Remittances Through Adjustment Form*

104. Where the Commission has authorized an employer to pay certain contributions by a remittance detailed on an adjustment form, the employer shall indicate on the form the name of the insured person in respect of whom payment is made, his insurance number or his date of birth if his insurance number is not known, and the amount of payment.

#### RECORDING CONTRIBUTIONS

105. No contribution shall be recorded for any period

- (a) prior to the calendar week in which the employment commences or prior to the calendar week in respect of which earnings are payable, as the case may be, or
- (b) after the calendar week in which the employment terminates.

(Section amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *Two Contributions Required for One Calendar Week*

106. Where the provisions of the Act or these Regulations require in any case the payment of two or more contributions for one calendar week, the second contribution shall be recorded in the second weekly space in the insurance book or card; the third contribution, in the third weekly space; and if there are more than three separate employers in any calendar week, the other contributions shall be recorded in another insurance book or card.

#### *Stamps*

107. (1) Contributions paid by means of unemployment insurance stamps shall be recorded by affixing them in the appropriate weekly space



indicated in the insured person's insurance book, card or adjustment form, for the period in respect of which payment is being made.

(2) Contributions paid by means of a metering device shall be recorded by impressing unemployment insurance stamps in the appropriate weekly space indicated in the insured person's insurance book, card or adjustment form, for the period for which payment is being made.

### *Bulk*

108. Contributions paid by means of the bulk payment method shall within three days of each pay day or other period approved by the Commission, be recorded by the employer in respect of each insured person on a contribution statement form.

### *Cancelling Stamps*

109. (1) An employer shall upon affixing any unemployment insurance stamp in a contribution record, cancel such stamp by writing in ink or stamping across its face his registration number, or if he has no registration number, his name and his trade name, if any.

(2) Any person may by writing or otherwise make an identification mark on an unemployment insurance stamp before it is used, if in the opinion of the Commission such identification mark does not destroy the legibility of the stamp.

(3) No person shall otherwise deface any unemployment insurance stamp, either used or not, or remove any such stamp from any contribution record.

## TIME FOR PAYMENT OF CONTRIBUTIONS

### *During Employment*

110. During the employment of an insured person, contributions shall be paid by the employer within three days of each pay day.

### *Upon Separation*

111. Upon separation of an insured person from employment the contributions payable for the current pay period, and all other contributions then unpaid, shall be paid by the employer immediately.

### *Bulk Payment*

112. Contributions payable under the bulk payment method shall be paid at intervals of not more than a month and, unless otherwise approved by the Commission, not later than fifteen days after the end of the month in respect of which they are payable.

### *Fixed Pay Days*

113. For the purpose of section 110, in any case where an insured person is not paid wages or other pecuniary remuneration, the pay day of such person shall be deemed to be the end of each calendar week, unless the Commission in any case or class of cases deems the pay day to be the end of any other period.

114. Where contributions owing have been determined under subsection (5) of section 96 of the Act, such contributions or any balance thereof due after such determination shall be paid forthwith without demand.

## REFUNDS, EXCHANGES AND WRITE-OFFS OF CONTRIBUTIONS

*Refunds of Stamps*

115. (1) Upon receiving an unemployment insurance stamp which has not been used for the payment of contributions, from an employer or from his legal representative, and upon being satisfied that such stamp was lawfully obtained by the employer and is in excess of his requirements, the Commission may pay to the employer or his legal representative out of the Unemployment Insurance Fund the aggregate value of such stamp or issue to him in exchange unemployment insurance stamps of the same aggregate value.

(2) The Commission may refund out of the Unemployment Insurance Fund to any employer who has made payment to the Post Office Department for setting the metering device, the whole or part of the amount thereof which has not been used for the payment of contributions.

(3) The Commission may deduct from such refund or exchange any expenses arising out of such transaction or any amount due to the Fund by the employer.

*Refund of Contributions Paid Erroneously*

116. (1) The Commission may repay to an employer or his legal representative a contribution, or any part thereof, paid by the employer on his own behalf, upon being satisfied that such contributions, or such part thereof, was paid under the erroneous belief that it was payable in respect of the employee for whom it was paid. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) The Commission may repay to an employer or his legal representative any contribution, or any part thereof, paid on behalf of one of his employees, upon being satisfied that such contribution, or such part thereof, was paid under the erroneous belief that it was payable in respect of such employee and upon being satisfied that the employer has not recovered such contribution from such employee.

(3) The Commission may repay to any employee or his legal representative, direct or through the employer by whom the contribution has been paid, a contribution which has been paid on his behalf, or any part thereof, upon being satisfied that such contribution, or such part thereof, was paid under the erroneous belief that it was payable by such employer and upon being satisfied that the employer who paid such contribution has recovered the same from him.

(4) Where an employer makes an overpayment of contributions not in excess of ten dollars, an inspector may refund in cash to the employer the amount of the overpayment. (Added by P.C. 1958-1567, effective Jan. 4, 1959.)

117. (1) Application for any refund under section 116 shall be made in a form satisfactory to the Commission within two years from the date on which the contribution was paid.

(2) Where the Commission is satisfied that in any case the contribution was paid on the direction of an officer of the Commission, or under other special circumstances, an application for a refund may be made at any time within four years from such date.

(3) No application for a refund for an amount less than one dollar shall be considered.

(4) The Commission may deduct, from the value of any person's share of any refund, any amount due to the Fund by such person.

(5) The Commission shall deduct equally, from the value of the employer's and of the insured person's share of any refund of contributions, any money that was paid to the insured person by way of benefit while he was disqualified therefor, or not entitled thereto, and which is not recoverable from him under section 103 of the Act, but where contributions were erroneously paid by the employer on the instructions of an officer of the Commission, either given in writing or otherwise verifiable through records of the Commission, such deduction shall only be made from the insured person's share of the refund.

(6) The Commission may deduct from the value of any refund under subsection (4) or (5), any expense arising out of such transaction. (Subsections (4) to (6) amended by P.C. 1958-1567, effective Jan. 4, 1959.)

### *Write-Off of Contributions*

118. (1) Contributions that are due and owing to the Fund by a person may be declared by an authorized officer of the Commission, as no longer due and owing to the Fund where

- (a) the contributions do not exceed five dollars in the aggregate;
- (b) the contributions have not been paid within four years of the date on which they were determined to be due and owing;
- (c) a person is deceased or is no longer a legal entity;
- (d) that person is a discharged bankrupt;
- (e) that person is an undischarged bankrupt and a final dividend has been received and the Trustee has been discharged;
- (f) that person's business, affairs or assets are wound up, settled or disposed of, otherwise than by bankruptcy, and the contributions owing are still unsatisfied; or
- (g) in accordance with general or special instructions of the Commission it is considered that, having regard to the circumstances,
  - (i) the contributions are uncollectable, or
  - (ii) the payment of the contributions would result in undue hardship to that person.

(2) Where an authorized officer of the Commission, pursuant to subsection (1), declares that contributions owing by a person are no longer due and owing to the Fund, such contributions shall be deemed to be written off. (Section amended by P.C. 1958-1567, effective Jan. 4, 1959.)

### CUSTODY OF CONTRIBUTION RECORDS

#### *Safeguarding*

119. Every person shall keep all contribution records in his possession or custody safe and free from defacement or destruction.

120. (1) The insured person, his employer or an officer of the Commission may alter the insured person's surname in case of change by marriage, or such person's address as recorded in his contribution records.

(2) No person shall otherwise deface or destroy any document or thing used in the administration of the Act and these Regulations, or alter any of the figures or particulars therein, except an officer of the Commission as directed by the Commission from time to time.



121. Every person shall upon request produce for inspection to any officer of the Commission any contribution records in his possession or custody, and any such officer may in his discretion take possession of and retain any contribution records.

122. (1) If the contribution records of any insured person are destroyed, lost or defaced, the Commission may upon application therefor, and on payment of the sum of five dollars, issue new contribution records. (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) If contribution records are destroyed, lost or defaced, the Commission may credit the insured person with payment of contributions for periods of employment with respect to which contributions on his behalf are to the satisfaction of the Commission shown to have been paid.

(3) Where contribution records have been destroyed, lost or defaced, and the insurance number is not supplied to the Commission, the Commission may decline to trace the record of contributions of the insured person whose contribution records have been destroyed, lost or defaced.

### *Disposition*

123. (1) In cases of separation from employment, the employer shall dispose of the insured person's contribution records as follows:

- (a) where the employer terminates the employment, he shall deliver the records to the insured person not later than the last day on which services are actually performed by the insured person for the employer;
- (b) where the insured person terminates the employment, the employers shall, if requested, deliver the records to the insured person at the end of the day on which the request is made or at the end of the last day on which services are actually performed by the insured person for the employer, whichever day is later; and
- (c) where more than seven consecutive working days elapse in respect of which the insured person has no earnings from the employer and has not actually performed services for him and the employer has not delivered the records to the insured person, the employer shall, notwithstanding paragraphs (a) or (b), deliver the records to the local office not later than the working day immediately following the seventh consecutive working day.

(Subsection (1) amended by P.C. 1958-1567, effective Jan. 4, 1959.)

(2) Where an insured person dies, the holder of his contribution records shall inscribe legibly thereon the word "deceased", and immediately deliver the records to the local office.

(3) Where an insured person ceases to be insured while still employed by his employer, the employer shall deliver that person's records to the local office within one week after such occurrence.

(4) Where any person who is not in insurable employment is at any time in possession of any contribution records in respect of former employment, he shall deliver them to the local office.

(5) No person shall, at any time, have in his possession more than one insurance book for any year, except in respect of two or more concurrent employments.

(6) Where a person dies or becomes permanently incapacitated while in possession of his contribution records, any relative, legal representative or other person into whose possession the contribution records may come shall forthwith deliver them to the local office.

(7) Every person who obtains possession of contribution records to which he is not entitled shall forthwith deliver them to the local office.

124. Upon any delivery of any contribution records pursuant to these Regulations, the employer shall obtain a receipt therefor from the insured person or an office of the Commission, as the case may be.

#### Return of Records

125. (1) Upon receipt of a written request from an officer of the Commission, every person shall deliver the contribution records that are in his possession to the place and within the time indicated in the request.

(2) Where no request to return contribution records is received by a person by the 31st day of May and he has in his possession contribution records that are designed for recording contributions for periods not later than the last complete calendar week in June of that year, he shall deliver all such records to the local office not later than the 15th day of June in that year.

(3) Every person who

(a) comes into the possession of any contribution record that is non-current, or

(b) has in his possession any contribution record that becomes non-current while in his possession,

shall, where such contribution record is not one that comes within subsection (1) or (2), deliver it to the local office within seven days of his obtaining possession thereof or of its becoming non-current as the case may be.

(4) For the purpose of this section, a contribution record shall become non-current on the 15th day of June of that year that is designed for recording contributions for periods not later than the last complete calendar week in June.

(5) Every person to whom this section applies shall furnish such information as may be required by the Commission for statistical purposes or for the issuance of contribution records for the succeeding period. (Section amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *Inspection of Records by Employee*

126. Every employer shall from time to time upon request give each insured person in his employ an opportunity of inspecting his contribution records as long as they are in the custody of the employer, but such person shall be entitled to inspect his contribution records not more than twice in any month and only at such reasonable times, either within or immediately before or after that person's working hours, as may be fixed by his employer for the purpose.

#### AUDIT

##### *Documentary Proof Required to be Furnished by Employers*

127. (1) The prescribed proof under subsection (3) of section 96 of the Act of the amount of unemployment insurance stamps lawfully in an

employer's possession at the commencement of any period specified by an inspector shall be

- (a) where an inventory of unemployment insurance stamps has been made by an inspector
  - (i) the duplicate of the form of inventory dated immediately prior to the commencement of the period; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
  - (ii) in default of such duplicate, the original thereof in the possession of the Commission;
  - (iii) in default of both the said original and duplicate, other proof satisfactory to the inspector requesting such prescribed proof; and
- (b) where no such inventory has been made, such proof shall be that required by subparagraph (iii).

(2) The prescribed proof under subsection (3) of section 96 of the Act of the amount of unemployment insurance stamps lawfully purchased by such employer during the said period shall be

- (a) the duplicate kept by the employer of each form of requisition for unemployment insurance stamps duly completed, date stamped and receipted by the authorized postmaster or his representative; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
- (b) the original thereof in the possession of the Commission; or
- (c) in default of both the said original and duplicate, other proof satisfactory to the inspector requiring such prescribed proof.

(3) The prescribed proof under subsection (3) of section 96 of the Act of the amount of contributions paid otherwise than by stamps during the said period shall be

- (a) the official receipt of the Commission for the amounts paid to the Commission for the purposes of contributions;
- (b) the stub or receipt for a money order, postal note or bank order or draft, for the amounts paid to the Commission for the purposes of contributions;
- (c) the cancelled cheque payable to the order of the Commission or the Receiver General of Canada for the amounts paid for the purposes of contributions; or
- (d) an adjustment form attached to an insurance book in the employer's possession; and
- (e) in default of the above, other proof satisfactory to the inspector requiring such prescribed proof.

(4) The prescribed proof under subsection (3) of section 96 of the Act of the amount of unemployment insurance stamps lawfully in an employer's possession at the end of any period specified by an inspector, shall be

- (a) the unemployment insurance stamps lawfully in the employer's possession at such time;
- (b) the duplicate of the form of inventory dated at the end of such period; (Amended by P.C. 1958-1567, effective Jan. 4, 1959.)
- (c) in default of such duplicate, the original thereof in the possession of the Commission; and
- (d) in default of both the original and duplicate, and where no inventory has been made, other proof satisfactory to the inspector requiring such prescribed proof.



*Method of Payment Where Contributions Not Paid at Times Required*

128. Where an inspector has found that an employer has not paid contributions within the time set out in sections 110 to 112, any subsequent payment of such contributions shall be made by the employer by forwarding forthwith to the inspector of the district in which such employer has his establishment, the properly stamped insurance books of the persons to whom such contributions relate or substitute or duplicate books issued to the employer by the inspector for that purpose.

*Payment Where Contributions Owing Are Determined Under Section 96(5) of the Act*

129. (1) Where contributions owing are determined under subsection (5) of section 96 of the Act and are wholly in respect of persons for whom contributions payable have not been determined at three per cent of the remuneration, contributions shall be paid in the following manner:

- (a) where the insurance books for such persons are in the possession of the employer, by affixing or impressing stamps and by forwarding such books so stamped to the inspector of the district in which such employer has his establishment; and
- (b) where such books are not in his possession, by forwarding to the inspector, cash, a certified cheque, a money order, or a bank order or draft, made payable to the Receiver General of Canada.

(2) Where such contributions owing are wholly in respect of persons for whom contributions payable have been determined at three per cent of the remuneration, contributions shall be paid by forwarding to the inspector, cash, a certified cheque, a money order, or a bank order or draft, made payable to the Receiver General of Canada, for such amounts that have not been paid otherwise.

(3) Where such contributions owing are in respect of persons for whom contributions payable have been determined partly at three per cent and partly in accordance with the provisions of the Act and the other sections of these Regulations, contributions shall be paid in the following manner:

- (a) where the insurance books for such persons are in the possession of the employer, (except for contributions included in the three per cent computation), by affixing or impressing stamps and by forwarding such books so stamped to the inspector of the district in which such employer has his establishment;
- (b) where such books are not in his possession, or for contributions included in the three per cent computation, by forwarding to the said inspector, cash, a certified cheque, a money order, or a bank order or draft, made payable to the Receiver General of Canada.

*Inadequate Records Computation at Three per cent*

130. (1) Where an inspector is of the opinion that the books, records, accounts and documents of an employer are not adequate for the purpose of enabling the inspector to determine, with reasonable facility according to the Act and these Regulations, other than this section, what contributions, for what periods and on what date they were payable by that employer in respect of any or all of his employees, the inspector shall, subject to subsection (4),

- (a) determine, in respect of the employees for whom such books, records, accounts and documents are in his opinion adequate, the

contributions payable according to the Act and these Regulations other than this section; and

- (b) determine, in respect of the employees for whom such books, records accounts and documents are in his opinion inadequate, the contributions payable on the basis of three per cent of the total earnings, computed or estimated as in subsection (3), that have been paid or become payable during such period to all employees, whether insured or not.

(2) The inspector may estimate such total earnings where, in his opinion, the books, records, accounts and documents of the employer are inadequate for the purpose of determining the earnings.

(3) An inspector in computing or estimating the total earnings to which the three per cent is to be applied, shall exclude therefrom any earnings which he is satisfied have been paid or become payable for the period

- (a) to any of the employees who are not insured; and
- (b) to any of the insured employees in respect of whom the books, records, accounts and documents were adequate.

(4) Notwithstanding subsection (1), an inspector may, on the first inspection of an employer's books, records, accounts and documents, determine the contributions payable by that employer for any period, by applying the provisions of the Act and the other Regulations to the earnings paid or payable to the insured persons employed by the employer during that period, established on the basis of oral information or written declaration where the employer

- (a) has not previously been sent a request to keep adequate books, records, accounts and documents,
- (b) agrees to keep adequate books, records, accounts and documents in the future,
- (c) agrees to make immediate payment of the contributions owing that the inspector may establish on the basis of the oral information or written declaration, and
- (d) has, in the inspector's opinion, acted in good faith.

(Section amended by P.C. 1958-1567, effective Jan. 4, 1959.)

#### *No Contributions Payable Where False Statements*

131. Where an insurance officer or an inspector, authorized by the Commission for this purpose, is of the opinion that a person has made a false statement or a misrepresentation to his employer and that as a result thereof the employer did not pay contributions in his respect for any period, such officer or inspector may declare that for that period contributions were not payable in respect of such person by that employer.

#### *Recovery of Employee Share of Previous Contributions*

132. Where an employer has not paid certain contributions in respect of an insured person, and such contributions are subsequently paid, a designated officer of the Commission, on receipt of an application from that employer, may authorize him in writing to recover the contributions so paid on behalf of that insured person from wages other than for the period in respect of which contributions were payable.

### *Allocation of Contributions to Particular Employees*

133. Where contributions paid by an employer cannot be allocated to a particular employee they may at a later date be allocated to the particular employee to whom they pertain, upon production of such evidence as the Commission may from time to time determine having regard to all the circumstances.

### *Interim Payments*

134. (1) Where an application is made to the Commission to determine any question involving liability to pay contributions or the amount or the rate of contributions payable in respect of any person, the largest amount considered by an officer of the Commission to be payable as contributions shall be paid from time to time as required by these Regulations until the question has been determined by the Commission or by the Umpire.

(2) Any contribution which then appears to have been erroneously paid may be refunded pursuant to section 116.

### *Deposits*

135. (1) Upon being so requested by a designated officer of the Commission an employer who has not paid contributions at the times required shall deposit with the Commission a sum not to exceed twice the monthly contributions payable by him.

(2) Such deposit may be applied at any time in payment of contributions payable.

### *Pecuniary Penalties*

136. (1) Where in the opinion of an authorized officer of the Commission an employer has not complied with the provisions of the Act and these Regulations relating to

- (a) the times of payment of contributions;
- (b) the making of returns of information; or
- (c) the keeping of records;

the officer may impose a pecuniary penalty on the employer in an amount or at a rate set by the Commission.

(2) An authorized officer of the Commission may remit in whole or in part any pecuniary penalty imposed on an employer under subsection (1). (Section amended by P.C. 1958-1567, effective Jan. 1959.)

## SPECIAL CLASSES

### STEVEDORES

#### *Divisors*

137. (1) Contributions in respect of any insured person employed in stevedoring in any of the ports designated in the table hereunder are payable for each pay-week for a number of days to be ascertained by dividing the earnings in the pay-week by the divisor or divisors hereunder specified



which shall apply respectively where the basic wage rate for stevedoring is the rate shown hereunder.

<i>Port</i>	<i>Hourly Rate</i>	<i>Divisor</i>
Halifax, N.S.....	Less than \$1.70.....	\$ 12
	\$1.70 and over.....	14
Saint John, N.B. ....	Less than \$1.10.....	8
	\$1.10 and over.....	11
St. John's, Nfld.....	Less than \$1.10.....	7
	\$1.10 and over.....	9
Montreal, Que.....	Less than \$0.99.....	8
	\$1.00 to \$1.29.....	10
	\$1.30 to \$1.69.....	12
	\$1.70 and over.....	14
Quebec, Que.....	Less than \$1.30.....	9
	\$1.30 to \$1.70.....	10
	More than \$1.70.....	12
Sorel and Three Rivers, Que.....	Less than \$0.85.....	5
	\$0.85 to \$1.10.....	7
	\$1.11 to \$1.30.....	9
	More than \$1.30.....	12
Vancouver, New Westminster and other coast ports for which records are maintained at Vancouver, B.C.....	\$1.15 to \$1.54.....	10
	\$1.55 to \$1.90.....	12
	\$1.91 to \$2.35.....	18
	More than \$2.35.....	22
Victoria, Port Alberni and other ports on Vancouver Island for which records are maintained at Victoria, B.C.....	\$1.15 to \$1.54.....	10
	\$1.55 to \$1.90.....	12
	\$1.91 to \$2.35.....	20
	More than \$2.35.....	22

(2) Contributions in respect of such insured person are not payable by any one employer for more than twelve days in respect of his employment in any one pay-week.

(3) In computing the number of contributions payable, any fraction resulting from such division shall be disregarded, except where wages earned by the insured person in the pay-week are less than the amount of the divisor, in which latter case a contribution shall be payable for one day.

(4) For the purposes of this section, "pay-week" has the meaning assigned thereto in section 94 of these Regulations.

(5) Where it is established to the satisfaction of the Commission that a person or class or group of persons is regularly and continuously employed in stevedoring at any such designated port by one employer only, the Commission may direct that the provisions of this section shall not apply to such person, class or group of persons.

#### *Daily Rates*

138. For the purposes of section 137 of these Regulations, the daily contribution rates equivalent to the rates set out in section 37 of the Act

shall be the following rates which shall apply respectively where the divisor is the amount shown hereunder.

No. of Days	Rates of Contributions				
	Divisor \$5.	Divisor \$7.	Divisor \$8.	Divisor \$9.	Divisor \$10. or Over
1.....	.06	.08	.09	.09	.10
2.....	.12	.16	.17	.19	.20
3.....	.18	.24	.26	.28	.30
4.....	.24	.32	.35	.37	.40
5.....	.30	.40	.43	.47	.50
6.....	.36	.48	.52	.56	.60
7.....	.42	.56	.61	.65	.70
8.....	.48	.64	.69	.75	.80
9.....	.54	.72	.78	.84	.90
10.....	.60	.80	.87	.93	1.00
11.....	.66	.88	.95	1.03	1.10
12.....	.72	.96	1.04	1.12	1.20

### *Method of Payment*

139. (1) Any employer who employs persons in stevedoring in any of the ports designated under section 137 shall pay by bulk payment all contributions payable for each pay-week, in respect of the employment of such persons within three days of the end of such pay-week.

(2) At the times of such payment the employer shall furnish the Commission with a list showing

- (a) the employer's name and address;
- (b) the ending date of the pay-week; and
- (c) in respect of each of the said employed persons:
  - (i) his name and identification number as may be specified by the Commission;
  - (ii) the hourly rate, or rates if more than one; and
  - (iii) the number of daily contributions and the total amount of such contributions payable in respect of employment in each pay-week.

### *Recording of Contributions*

140. (1) Contributions paid in respect of a person employed in stevedoring in any of the designated ports under section 137 shall be recorded in the first instance by the Commission on a contribution statement in such manner and at such times as the Commission may determine, for any person who has registered as a stevedore at the local office of the port where the employment took place.

(2) Such contributions paid in respect of any pay-week by an employer shall be recorded successively, one per day, for each of the days, other than Sunday, for which no contribution is required to be recorded in that pay-week and in advance in the two pay-weeks next thereafter.

(3) Revoked by P.C. 1958-1567.

(4) Any contribution paid in respect of employment in any pay-week, that cannot under this section be recorded in that pay-week or in advance in the two pay-weeks next thereafter shall nevertheless be recorded in respect of the pay-week in which it was earned.

(5) Any contribution recorded in advance in the second or third calendar weeks at the beginning of a benefit period shall be deemed to have been recorded in respect of the last calendar week, for which any contribution is already recorded, immediately preceding the commencement of such benefit period.

### *Inspection of Contribution Records by Employee*

141. The Commission shall, upon request, give each person employed in stevedoring in any designated port an opportunity of inspecting his contribution records so long as they are in its custody.

## LUMBERING AND LOGGING

### *Owner Deemed to be Employer*

142. (1) Where any person, engaged under a contract of service by an employer, performs any work in connection with any operations in lumbering and logging, in any logging limits, driveways, yards or mills, the owner thereof who authorizes the employer to undertake the work shall, in addition to such employer, be deemed to be the employer of such person for the purpose of the payment of contributions under the Act and Regulations.

(2) For the purposes of this section,

- (a) "owner" means any owner (other than the Crown), lessee, licensee or permittee, but does not include one who only sells or rents stumpage or cutting rights; and
- (b) "lumbering and logging" means the cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming, and processing at the scene of woods operations, of any logs or timber, including cord wood, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves.

### *Number and Rate of Contributions*

143. (1) This section applies to a person who is employed in lumbering and logging and is paid by the piece on a share or on some similar basis, or on the basis of some other consideration whereby he provides, in addition to his services, such machinery or equipment as may be necessary for the purpose of these services.

(2) The number of calendar weeks for which contributions are payable by an employer in respect of any period of employment of a person mentioned in subsection (1), shall be

- (a) where records kept by the employer are adequate to determine the number of days in which he worked, the number equal to the number obtained by dividing by six the total number of working days in the period, and
- (b) where records are not kept by the employer or the employer's records are inadequate, the number equal to the number obtained by dividing the total quantity of logs or timber scaled in that period by the divisor determined in accordance with subsection (3), but shall in no event be greater than the calendar weeks for which contributions may be recorded under Section 105.

(3) For the purpose of paragraph (b) of subsection (2), where the logs or timber scaled in a period are of the kind set out in column 1, the divisor shall be the number set out in column 2:



(a) *Pulpwood*

<i>Column 1</i>	<i>Column 2</i>
(1) Cutting only .....	12 cords
(2) Cutting and sap peelings.....	8 cords
(3) Cutting and dry shaving.....	6 cords
(4) Cutting and hauling.....	8 cords
(5) Hauling only .....	25 cords

(b) *Sawlogs*

<i>Column 1</i>	<i>Column 2</i>
(1) Cutting only: in British Columbia.....	65,000 ft. B.M.
(2) Cutting only: other than in British Columbia..	8,000 ft. B.M.
(3) Cutting and skidding or cutting and hauling....	6,000 ft. B.M.
(4) Hauling or skidding only.....	20,000 ft. B.M.

(4) Where the number of weeks obtained by application of the formula set out in subsection (2) results in a fraction of a week, the fraction

(a) shall be counted as a full week if one-half or greater, and

(b) shall not, except in subsection (6), be counted if less than one-half.

(5) Subject to subsection (6), where the number of calendar weeks for which contributions payable in respect of an insured person have been determined under subsection (2), the earnings of that person for the period of such employment shall be deemed to be,

(a) in British Columbia at the rate of \$57.00 and over per week, and

(b) elsewhere in Canada at the rate of \$51.00 to \$56.99 per week.

(6) Where the period of employment as determined by subsection (2) is less than one-half week, the earnings for such period shall be deemed to be at the rate of \$15.00 to \$20.99 per week. (Section amended by P.C. 1958-1567, effective Jan. 4, 1959.)

*Railway Employees Paid on Mileage Basis*

144. For the purposes of section 97, a railway employee paid on a mileage basis shall be deemed to have worked in each calendar week or part week that falls in any semi-monthly pay period or monthly pay period, if his earnings for such semi-monthly or monthly pay period amount to or exceed \$180 or \$360 respectively.

**Part V****BENEFIT****APPLICATION FOR BENEFIT***General*

145. (1) Any insured person who desires to make a claim for benefit shall, in such manner as the Commission may from time to time direct, fulfil the conditions imposed by sections 146 to 148, which shall be deemed to be additional conditions for the receipt of benefit.

(2) Any failure to make a claim in the prescribed manner shall render the claimant liable to disqualification under subparagraph (ii) of paragraph (a) of subsection (2) of section 69 of the Act for so long as he fails to fulfil any such conditions.

(3) No person shall make a false or misleading statement or a misrepresentation, orally or in writing, with respect to a claim for benefit, either for himself or for any other person, or with respect to any information required under the Act or these Regulations. (Amended by P.C. 1958-1567, effective Jan. 4, 1959 and by P.C. 1958-1723, effective Jan 14, 1959.)

(4) An officer of the Commission may, pursuant to general or specific directions of the Commission, in any particular case or in any class or group of cases, dispense with or vary the requirements of any of the provisions of sections 146 to 148, and in any such case the claimant shall furnish such evidence, or attend at a local office or other place, as may be required.

#### *Initial and Renewal Claims*

146. (1) Every claimant, except a postal claimant, who desires to make an initial or renewal claim for benefit shall, in the prescribed manner

- (a) attend at the local office and register for employment;
- (b) apply for benefit at the local office on such forms as the Commission may from time to time determine;
- (c) lodge, make arrangements to lodge or produce as and when directed his contribution records at the local office; and
- (d) furnish in the manner and at the time required such evidence as to the fulfilment of the conditions and the absence of disqualification for receiving benefit and for that purpose attend at such office or place as directed.

(2) For the purposes of these Regulations,

- (a) "initial claim" means a claim made for the purpose of establishing a claimant's benefit period or seasonal benefit period; and
- (b) "renewal claim" means a claim made during the currency of a benefit period or seasonal benefit period after the claimant has failed to report on two or more consecutive claim-report days.

#### *Continuing Claims*

147. (1) Every claimant, except a postal claimant, who desires to make a continuing claim for benefit in the prescribed manner shall

- (a) attend at the local office at which he made his last initial or renewal claim for benefit or at such other place as may be permitted in his case and keep his application for employment alive;
- (b) produce his contribution records as and when directed; and
- (c) on request, attend at the office or place, on the day and at the time specified in the request, and furnish such evidence in such manner as he may be directed by an officer of the Commission and sign a declaration as to the proof of the facts declared, in order to
  - (i) prove that he is unemployed, capable of and available for work and unable to obtain suitable employment;
  - (ii) establish the amount of his earnings;
  - (iii) establish his entitlement to the dependency rate of benefit claimed; and
  - (iv) establish the fulfilment of the conditions and the absence of disqualification for receiving or continuing to receive benefit. (Paragraph (c) amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(2) For the purpose of these Regulations, "continuing claim" means a claim of a continuing nature for the purpose of keeping in effect during the currency of a benefit period or seasonal benefit period an initial or renewal claim by the claimant reporting at specified intervals to prove entitlement to benefit.

### *Postal Claimants*

148. (1) Every postal claimant shall comply with the requirements of sections 145 to 147, in person, except when an officer of the Commission has directed that he may do so by mail.

(2) For the purpose of fulfilling by mail the conditions laid down in paragraph (c) of subsection (1) of section 147, every postal claimant shall forward to the local office a postal claimant's report signed by himself. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(3) For the purposes of these Regulations, "postal claimant" means any claimant whose residence is in excess of such a distance from the local office, or the cost of whose ordinary return transportation between his residence and the local office is in excess of such an amount, as the Commission may from time to time determine.

### *Request for Information*

149. Every person for whom a claimant is alleged to have worked or performed services, under any contractual arrangement whatever, or from whom he is alleged to have received or from whom it is alleged he will receive any earnings, shall furnish an officer of the Commission immediately upon request therefor, with any information in his possession relevant to the claim for benefit made by such claimant. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)

## BENEFIT PERIODS

### *Antedating*

150. (1) Where a claimant makes application to have his claim made effective for a period preceding the date on which he actually made his claim, the application may be approved from the date for which he proves that

- (a) he fulfilled in all respects the conditions of entitlement to benefit and was in a position to furnish proof thereof; and
- (b) throughout the whole period between such date and the date he actually made his claim he had good cause for delay in making such claim and furnishing such proof.

(2) For the purposes of this section, such ante-date shall in no case be more than thirteen weeks from the week in which he made his claim for benefit, and such ante-dated claim shall always commence with the Sunday of the week in which such ante-date falls.

### *Cancellation*

151. (1) Where a benefit period has been established in respect of a claimant but benefit is not payable or has not been paid in respect of that benefit period, the benefit period may be regarded as not having commenced if an insurance officer designated for the purpose so determines.



(2) Subsection (1) does not apply where the benefit period was established by reason of false statements or misrepresentations by or on behalf of the claimant and benefit in respect of that benefit period would not otherwise have been paid.

#### *Waiving of Waiting Period*

152. An insurance officer may waive the waiting period in respect of a benefit period where

- (a) the benefit period commences either in the week in which the previous benefit period terminates or in the week immediately subsequent thereto, and
- (b) the excess of the claimant's earnings over his allowable earnings, for the last two weeks of his previous benefit period is not greater than his current weekly rate of benefit.

#### *Prescribed Proof for Extensions of Qualifying Periods*

153. A claimant who requests that the qualifying periods specified in section 45 of the Act be extended, shall prove any of the conditions for the granting of the extension at such time and in such manner as the Commission may from time to time direct.

### CONDITIONS OF ENTITLEMENT

#### *Unemployment of Self-employed Claimants*

154. (1) Where a claimant is

- (a) self-employed or engaged in the operation of a business, whether on his own account or in partnership or coadventure, or
- (b) employed in any employment in which he is in the position of controlling his working hours,

he shall not, subject to subsections (2) and (3), be considered as unemployed for the purposes of the Act or these Regulations during any period in respect of which he remains so self-employed, engaged or employed.

(2) Where the self-employment, business engagement or employment of a claimant described in subsection (1) is so minor in extent that a person would not, under the circumstances, normally follow it as a principal means of livelihood, the claimant shall in respect thereto be considered as unemployed for the purposes of the Act and these Regulations.

(3) Where the claimant's self-employment, business engagement or employment is farming and does not come within subsection (2), the claimant in respect thereto shall nevertheless be considered as unemployed for the purposes of the Act and these Regulations during the farming off-season (that is to say the period beginning with the week in which October 1st falls and ending with the week in which March 31st next falls) if he proves to the satisfaction of an insurance officer that he does no work during that off-season or that the work he performs during that off-season is so minor in extent that it would not prevent him from accepting full-time employment. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.) \*

#### *Full Working Week*

155. (1) The provisions of this section shall apply only to a claimant who is employed in any employment in which he is not in the position of controlling his working hours.

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\* Formerly section 156 and section 158 (3) and (4).

(2) Subject to subsection (4), the full working week of a claimant shall be the number of hours, days or shifts normally worked in a calendar week by his grade, class or shift at the factory, workshop or other premises at which he is or was employed.

(3) Where a claimant is remunerated at a piece, mileage or other unit rate, the provisions of this section shall apply by substituting the number of such units for the number of hours, days or shifts wherever mentioned.

(4) Where the number of hours, days or shifts normally worked in a calendar week by a claimant's grade, class or shift at the factory, workshop or other premises at which he is or was employed, is the number that normally is worked by persons in part-time employment and is less than the number of hours, days or shifts normally worked in a calendar week by persons employed in full-time employment in the employment which is closest in nature to the claimant's employment, the claimant's full working week shall be that pertaining to such full-time employment.

(5) A claimant who, in respect of a week during which his contract of service continues, receives or will receive his usual remuneration for a full working week, shall, notwithstanding that he may be excused from the performance of his normal duties or does not in fact have any particular duties to perform at that time, be considered, within the meaning of section 57 of the Act, as fully working during that week.

(6) A claimant who is a railway employee paid on a mileage basis and earns \$360 or more in a month shall be considered as fully working within the meaning of section 57 of the Act during each week falling completely within that month. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)<sup>1</sup>

#### *Holidays and Non-Working Days*

156. (1) Subject to subsection (2), whenever a person is unemployed during a week by reason only that he does not work at his place of employment on a general continuous holiday, such person shall be unemployed during such week within the meaning of section 57 of the Act.

(2) Whenever a person is unemployed during a week by reason only that he does not work on a single holiday or on the working day immediately before or after such holiday or on any combination thereof, by reason of such holiday, such person shall not be unemployed during that week. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)<sup>2</sup>

#### *Unemployed and Available on Saturday Sabbath*

157. Where a person proves to the satisfaction of an insurance officer that

- (a) because of his religious belief he observes the Sabbath on Saturday instead of Sunday,
- (b) he does not work on Saturday, and
- (c) he fulfills all the other conditions of entitlement to benefit,

he shall be considered as unemployed and available on Saturday. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)<sup>3</sup>

<sup>1</sup> Formerly section 158.

<sup>3</sup> Formerly section 154.

<sup>2</sup> Formerly section 155.

*Unemployed and Available While on Relief*

158. A claimant who, as a condition precedent to the receiving of money or a voucher or order to purchase food, clothing, shelter, fuel or other necessities of life, performs work on any day for, and under the direct control of, a municipal or other public authority or organization constituted or especially authorized for the relief of needy unemployed persons, shall, for the purpose of the Act and these Regulations, be considered, in respect of the performance of such work, to be unemployed and available for work on any such day, if such authority or organization certifies that he performed the work under the conditions outlined above and that its performance did not prevent him from accepting other work. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)<sup>2</sup>

*Unpaid Contributions Deemed to be Paid*

159. For the purpose of computing contribution weeks in respect of a benefit claim, unpaid contributions may be deemed by the Commission to have been paid

- (a) in the case of bankrupt or delinquent employers who have made deductions from the particular claimant's wages, when proof of such deductions is made and such contributions are required for the purpose of fulfilling the qualifying conditions and establishing the minimum duration of benefit, and
- (b) in the case of an employer given in writing an erroneous ruling by an officer of the Commission, contributions unpaid by reason of such ruling.

*Effect of Contributions Wrongly Paid*

160. A week for which contributions have been paid in error in respect of any claimant shall not be taken into account for the purpose of determining his benefit rights unless in any particular case an officer designated by the Commission otherwise decides.

*Additional Conditions Imposed upon Certain Married Women*

161. Revoked by P.C. 1957-1477, effective Nov. 17, 1957.

*Additional Conditions Imposed on Seasonal Workers*

*Seasonal Worker*

162. Revoked by P.C. 1956-1476, effective Oct. 2, 1956.

*Entitlement to Benefit for Off-Season*

163. Revoked by P.C. 1956-1476, effective Oct. 2, 1956.

164. Revoked by P.C. 1956-1476, effective Oct. 2, 1956.

164A. Revoked by P.C. 1956-1476, effective Oct. 2, 1956.

PAYMENT OF BENEFIT

*Intervals*

165. (1) Payment of benefit is made at weekly intervals.

(2) In respect of certain areas, periods and classes of claimants, payment may be made at such intervals as the Commission may from time to time determine.

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<sup>2</sup> Formerly section 157.



*No Benefit for Interim Contributions Until Decision*

166. Where an employer has paid contributions under section 134 pending the decision of the Commission or the Umpire, as the case may be, such contributions paid shall not be considered as paid for the purpose of computing contribution weeks, pending the decision until such time as the decision is final and is to the effect that contributions were payable in respect of the claimant.

*Suspension of Benefit Pending Appeal*

167. Benefit shall not be payable in accordance with the decision of a Board of Referees where in the opinion of the Commission such decision has ignored the explicit provisions of the Act or Regulations, provided that an appeal to the Umpire is brought on these grounds within twenty-one days of the day on which the decision of the Board of Referees is given.

*Payment at the Dependency Rate*

168. (1) For the purpose of carrying out the provisions of subsection (3) of section 47 of the Act

- (a) "self-contained domestic establishment" means a dwelling house, apartment, room or other similar place in which, among other things, the dependant for whom the insured person claims, ordinarily has his residence, sleeps and has his meals or has his domicile;
- (b) "connected by blood relationship" refers only to the insured person's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, uncles, aunts, nephews and nieces;
- (c) "connected by marriage" refers only to the parents, grandparents, great-grandparents, brothers and sisters of the insured person's spouse and his stepchildren;
- (d) "connection by adoption" refers only to adoption by process of law; and
- (e) "adopted child" refers to a child adopted in any manner.

(2) For the purposes of the Act and these Regulations, where the dependant mentioned in subparagraph (i) or (iii) of paragraph (a) of subsection (3) of section 47 of the Act earns any income (including unemployment insurance benefit) in excess of \$14 a week and where the dependant mentioned in subparagraph (ii) or (iv) thereof has any income including unemployment insurance benefit in excess of \$14 a week from any source, such dependant shall not be considered as being maintained wholly or mainly by the claimant or as being dependent on the claimant. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(3) A person who does not reside in Canada is not a dependant within the meaning of subsection (3) of section 47 of the Act unless such dependant is domiciled or resides

- (a) in the territory of Alaska or Hawaii, the District of Columbia or in any State of the United States of America with which Canada has a reciprocal agreement, or
- (b) in any other States of the United States of America and such dependant is able, if directed, to report in person at a local office in Canada.

*Payments in Respect of Persons Residing Outside of Canada*

169. (1) A claimant residing temporarily or permanently in any State of the United States of America contiguous to Canada shall not be disqualified from the receipt of benefit by reason only of such residence, if he is available for work in Canada and able to report personally at a local office in Canada at such time as an officer of the Commission may direct.

(2) A claimant residing temporarily or permanently in the Territory of Hawaii, the District of Columbia or in any of the States of the United States of America, with which Canada has a reciprocal agreement, shall not be disqualified from the receipt of benefit by reason only of such residence, if he proves entitlement to benefit under the reciprocal agreement between Canada and the United States of America contained in the Schedule to these Regulations. (Section 169 amended by P.C. 1958-1567, effective Nov. 30, 1958, and subsection (2) amended by P.C. 1958-1723, effective Jan. 4, 1959.)

*Inmates of an Institution*

170. A claimant who is an inmate of a hospital, mental institution or other similar institution, that is supported wholly or partly out of public funds, shall not be disqualified from receipt of benefit by reason only of being an inmate if the institution requires an inmate to pay all or part of his subsistence, depending upon his means or if, subsequently to having become entitled to receive benefit, and while otherwise continuing to be so entitled, the claimant became incapable of work by reason of illness, injury or quarantine and became an inmate by reason of such incapacity.

*Payments in Respect of Persons of Unsound Mind, Incapacitated or Deceased*

171. Where any money is payable out of the Unemployment Insurance Fund to any person of unsound mind, to any incapacitated person, or to any person at the time of his death, the Commission or any officer authorized in that behalf by special or general directions of the Commission may authorize payment of such money or any part thereof to any person who, in its or his opinion, should receive it.

*Earnings for Purpose of Benefit*

172. (1) The earnings to be taken into account for the purpose of determining the amount of benefit payable to an insured person are, saving the exceptions in subsection (2), all remuneration or income received or to be received in connection with services performed by such person, whether or not under a contract of service and, for the purpose of this section, shall include

- (a) retirement leave credits;
- (b) wages in lieu of notice;
- (c) reserve army pay for attendance at camp for not more than two consecutive working days;
- (d) board and lodging;
- (e) holiday pay provided for by subsection (4) of section 173;
- (f) workmen's compensation paid in respect of total temporary disability; and
- (g) monies paid in consideration of a claimant's returning to or commencing work with, a specific employer.

- (2) The earnings of an insured person for the purpose of subsection (1) shall not include
- (a) bonuses or gratuities paid for past services;
  - (b) relief grants in cash or in kind;
  - (c) disability, military, old age, or retirement pension;
  - (d) workmen's compensation under a permanent settlement;
  - (e) payments under sickness and disability insurance plans;
  - (f) investment income;
  - (g) holiday pay other than that in paragraph (e) of subsection (1); or
  - (h) earnings less than \$1.00 in a week.
- (3) For the purposes of computing the earnings of a claimant under subsection (1)
- (a) the earnings of a claimant who is self-employed other than in farming, shall, in respect of such self-employment only, be his net earnings, namely, the amount remaining after deducting from the gross returns from his employment the operating expenses, other than capital expenditures, incurred for the direct purpose of securing the gross returns;
  - (b) the earnings of a claimant who is self-employed in farming shall, in respect of his farming operations only, be 50% of his gross returns from his farming transactions; and
  - (c) the earnings of any other claimant shall be his earnings computed as provided under section 85 whether or not the earnings arise from insurable employment.

(4) Where the earnings of a claimant include non-pecuniary income, the value of such income shall be determined in accordance with the provisions of sections 86 to 88, whether or not the earnings arise from insurable employment. (Subsections (3) and (4) amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(5) For the purpose of determining the amount of benefit payable to a claimant with respect to whom contributions for the period being claimed for had been recorded in advance, the amount of earnings to be taken into account shall be the lowest amount in the range represented by such contributions in the period of claim and where the total value of such contributions does not correspond exactly with the value of the weekly contributions set out under section 37 of the Act the nearest such value shall be taken.

#### *Allocation of Earnings for Benefit Purposes*

173. (1) Subject to subsection (3), the earnings of an insured person shall be allocated, for the purpose of determining the amount of benefit payable, to the period for which earned or paid.

(2) If the earnings are for a period that is monthly, semi-monthly or that otherwise does not coincide exactly with a claim week, such earnings shall be allocated to the days for which earned or paid in the particular claim week in the proportion that such days bear to the total pay period.

(3) Retirement leave credits or payments in lieu thereof, wages in lieu of notice, workmen's compensation total temporary disability payments, shall be allocated to each week in respect of which they are received



and where they are payable in a lump sum and are not allocated to specific weeks, they shall be allocated to a number of consecutive weeks, beginning with the first week after separation, determined by dividing the amount of the earnings

- (a) in the case of workmen's compensation total temporary disability payments, by the claimant's weekly rate of compensation; and
- (b) in the case of all such other earnings, by the weekly rate of his usual basic earnings from his employer or former employer.

(Subsection (3) amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(4) Holiday pay and pay credits, for a holiday period, shall be allocated, on the basis of the weekly rate of the claimant's usual basic earnings from the employer from whom he receives such pay, first to the weeks or parts thereof that fall within the holiday period, and then to any other period of time in respect of which such pay is payable, and in the case of the separation from employment of a person, such pay or credits shall be taken into account as earnings and allocated as above, only if such period is, at the place where he was employed, a general continuous holiday which commenced within six weeks after such separation. (Subsection (4) amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(5) Where a claimant works on a Saturday continuously through midnight into Sunday the earnings for such work shall be allocated to the week in which the Sunday falls if the time spent on such work after midnight is equal to or longer than the time worked before midnight and otherwise the earnings for such work shall be allocated to the week in which the Saturday falls.

(6) For the purposes of this section, fractions of a dollar equal to or greater than one-half shall be taken as a full dollar and lesser fractions disregarded.

(7) Earnings of claimants who are self-employed, other than in farming, or of claimants whose earnings are by way of participation in profits or on the basis of a commission, shall, in respect of such employment, be allocated to the week in which services are performed, and where no services are performed, to the week in which the transaction that gave rise to the earnings occurred.

(8) The earnings of a claimant who is self-employed in farming shall, in respect of such self-employment, be allocated to the week in which the transaction which gave rise to the earnings occurred. (Subsections (7) and (8) added by P.C. 1958-1567, effective Nov. 30, 1958.)

### *Ratification of Benefit Wrongly Paid*

174. Sums paid by way of benefit while a claimant was not entitled thereto may be ratified by an authorized officer of the Commission, except where

- (a) there is evidence of misrepresentation or false statements on the part of the claimant or a person on his behalf; or
- (b) such sums were not paid in accordance with the rate or duration of benefit authorized by an insurance officer, unless in the opinion of an authorized officer of the Commission they were received in good faith by the claimant.

### *Write-off of Benefit Wrongly Paid*

175 (1) Sums paid by way of benefit while a claimant was not entitled thereto and which are owing to the Fund, may be declared by an authorized officer of the Commission as no longer due and owing to the Fund, where

- (a) the sums do not exceed in the aggregate five dollars;
- (b) the sums have not been repaid to the Fund within three years from the date on which they were determined to be due and owing to the Fund;
- (c) the claimant is deceased;
- (d) the claimant is a discharged bankrupt;
- (e) the claimant is an undischarged bankrupt but the final dividend has been received and the trustee has been discharged;
- (f) the claimant's business, affairs or assets are wound up, settled or disposed of, otherwise than by bankruptcy, and such sums are still unsatisfied; or
- (g) in accordance with general or special instructions of the Commission it is considered that, having regard to all the circumstances,
  - (i) the sums are uncollectable, or
  - (ii) the repayment of the sums would result in undue hardship to the claimant.

(2) Where an authorized officer of the Commission, pursuant to subsection (1), declares that sums paid by way of benefit while a claimant was not entitled thereto and owing by that claimant are no longer due and owing to the Fund, such sums shall be deemed to be written off. (Section amended by P.C. 1958-1567, effective Nov. 30, 1958.)

### ADJUDICATION AND APPEAL PROCEDURE

#### *Insurance Officers' Powers*

176. (1) The Commission may from time to time determine the procedure to be followed for the consideration and examination of benefit claims and questions to be considered by an insurance officer and, without limiting the generality of the foregoing, may also determine from time to time the claims and questions which any insurance officer shall examine.

(2) An insurance officer, before deciding any question arising in connection with a claim for benefit, may refer the question for investigation and report.

#### *Constitution of Boards of Referees*

177. (1) Boards of Referees shall be constituted by the Commission and each shall consist of a chairman appointed under subsection (2) of section 17 of the Act and one or more members of the employed persons' panel and an equal number of members from the employers' panel.

(2) A panel shall be composed of such persons as the Commission may from time to time choose for such period as it may stipulate and such membership may be terminated by the Commission at any time.

(3) As far as is practicable, members of a board, other than a chairman, shall be selected in rotation from each respective panel.

(4) No person shall be a member of a board during the consideration of a case

- (a) in which he is or has been a representative of the claimant;
- (b) by which he is or may be directly affected; or
- (c) in which he has taken any part either on behalf of an association, or as an employer, or as a witness, or otherwise.

178. Any claim or question which is referred or appealed to a board may be proceeded with, where

- (a) one-half of the members of the Board and the chairman are present, and
  - (b) the claimant or his representative consents,
- and in such case the chairman shall have a casting vote in the event of a tie. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)

### *Appeal to a Board*

179. An appeal from a decision of an insurance officer shall be in writing, shall contain a statement of the grounds of the appeal, and shall be filed at the local office from which the claimant received notification of the insurance officer's decision.

### *Hearing*

180. (1) A claimant may apply for a hearing where

- (a) his claim for benefit is referred to a board, within seven days from receipt of notice of the reference; or
- (b) he appeals to a Board of Referees from a decision of an insurance officer, at the time of filing the appeal.

(2) Application for a hearing shall be in writing and shall be filed with the local office at which the appeal is filed.

(3) The chairman shall grant a hearing upon such application but if no such application has been made he may nevertheless direct that there shall be a hearing.

(4) In no case shall a person be entitled to be paid for travelling or other allowances for the purpose of attending the hearing unless he is directed in writing by the chairman of the board to attend before the board.

(5) The procedure on a hearing shall be determined by the chairman.

### *Referral for Investigation*

181. Before deciding any question arising in connection with a claim for benefit, the chairman of a board, at any time prior to the board's decision, may refer the question for investigation and report.

### *Decision of a Board*

182. (1) A board shall not decide a case until a reasonable opportunity has been given to the claimant to make any representations which he desires the board to consider in making its decision and, where he fails to do so, he shall be deemed to have had such reasonable opportunity.

(2) Where any member of a board dissents from the decision of the board the reasons for his dissent shall be recorded in the report of the proceedings of the board.



(3) As soon as a board has reached a decision the chairman shall file such decision with the insurance officer.

(4) The claimant shall be notified in writing of the decision.

#### *Leave to Appeal to the Umpire*

183. (1) An application for leave to appeal to the Umpire under subsection (1) of section 73 of the Act shall be made within thirty days of the date on which the decision of the board is communicated to the claimant, or within such further time as the Commission may in any particular case for special reasons allow, and in such form and manner as the Commission may from time to time direct.

(2) Within fifteen days after the receipt of any such application the chairman shall notify the insurance officer in writing of his decision and the insurance officer shall forthwith send written notice of such decision to the claimant.

#### *Manner of Appeal to the Umpire*

184. (1) An appeal to the Umpire by a claimant or his association of workers from a decision of a board shall be made by filing the appeal at the claimant's local office.

(2) An appeal to the Umpire by an insurance officer from such a decision shall be made by filing the appeal with the Registrar of the Umpire at Ottawa.

(3) Where the insurance officer makes the appeal, the claimant or his association of workers, or any person or association having an immediate interest, may, within ten days of the date on which a copy of the appeal is filed or within such further time as the Umpire may allow, file with the claimant's local office for submission to the Umpire a statement of observations and representations.

(4) Where the appeal is made by the claimant or his association of workers, the insurance officer may file such statement with the Registrar of the Umpire at Ottawa.

(5) Any person or association having an immediate interest in the decision may, within the time mentioned in subsection (3), file with the claimant's local office for submission to the Umpire a statement of observations and representations. (Section amended by P.C. 1958-1567, effective Nov. 30, 1958.)

#### *Question of Immediate Interest*

185. The question as to whether any person or association has an immediate interest is one for the Umpire to decide.

#### *Hearing by the Umpire*

186. (1) The claimant or his association of workers, an insurance officer or any person or association having an immediate interest may make application in writing to the Umpire for a hearing and the Umpire shall thereupon grant a hearing.

(2) An application to the Umpire for a hearing, made by a claimant or his association of workers or a person or association having an immediate interest, shall be filed at the claimant's local office within ten days of the date on which the appeal is filed or within such further time as the Umpire may allow.

(3) An application to the Umpire for a hearing may be made by an insurance officer at any time before the Umpire has rendered his decision by filing the application with the Registrar of the Umpire at Ottawa.

(4) Where no application for a hearing has been made, the Umpire may nevertheless direct that there shall be a hearing.

(5) No person shall be paid for travelling or other allowances for the purpose of attending the hearing unless he is requested by the Umpire to so attend.

(6) In any case where a hearing is to be held a notice thereof in writing, fixing a date allowing at least fourteen calendar days between the date of receipt of such notice and the date fixed for the hearing, shall be sent by the Registrar of the Umpire to

- (a) the claimant or his association of workers, as the case may be,
- (b) the insurance officer,
- (c) any person or association having an immediate interest in the decision who applied for the hearing, and
- (d) such other persons or associations as the Umpire may direct.

(7) A hearing may be held by the Umpire or by a person or persons designated by him for that purpose, and such person or persons shall submit a detailed report of the hearing for the consideration of the Umpire in deciding the question.

(8) The procedure on the hearing of an appeal shall be determined by the Umpire or the person or persons designated by him to hold the hearing. (Section amended by P.C. 1958-1567, effective Nov. 30, 1958.)

### *Decision of the Umpire*

187. (1) The decision of the Umpire shall be in writing and a copy thereof under the seal of the Registrar of the Umpire shall be sent to the claimant, the insurance officer, the person or association having an immediate interest who applied for a hearing and to such other persons or associations as the Umpire may direct. (Amended by P.C. 1958-1567, effective Nov. 30, 1958.)

(2) The Commission may publish the decision, or a digest thereof, if and as it deems expedient.

## **Part VI**

### TRANSITIONAL

#### *Special Rule Regarding Rate and Duration of Benefit*

188. The provisions of the new Act with respect to benefit shall apply to benefit years established under the old Act and not yet terminated on October 1, 1955, as well as to benefit years established as a result of applications for benefit pending under the old Act on October 1, 1955, except as regards rate and duration of such benefit which shall be as hereunder provided:

- (a) As regards rate of such benefit the weekly rate to be paid, in accordance with the new Act, shall be that shown in the table hereunder opposite the daily rate of benefit which would apply under the old Act were it not for the new Act.

TABLE

Column 1 Without Dependent		Column 2 With Dependent	
Daily Old	Weekly New	Daily Old	Weekly New
\$0.70	\$ 6.00	\$0.80	\$ 8.00
1.00	6.00	1.25	8.00
1.45	9.00	2.00	12.00
1.80	11.00	2.50	15.00
2.15	13.00	3.00	18.00
2.50	15.00	3.50	21.00
2.85	17.00	4.00	24.00

- (b) As regards duration of such benefit no person shall, in respect of any converted benefit period, be paid benefit in excess of the daily rate established under the old Act multiplied by the number of benefit days remaining as of October 2, 1955 in the benefit year established under the old Act provided, however, that fractions of a dollar equal to or greater than one-half shall be taken as a full dollar and lesser fractions disregarded.

### *Veterans*

189. Upon the discharge of any person to whom section 12 of the Veterans Benefit Act, 1954, applies there shall be credited to the Fund out of monies appropriated by Parliament for the purpose, the amount of the contributions of the employer and employed person at the combined weekly rate of ninety-six cents for a period equal to the period of service of such person up to a maximum period of one hundred and four weeks, and such person is deemed to have been *bona fide* employed in insurable employment during the said period of service and all contributions are deemed to have been paid in respect of such person during the said period of service, but where the period of service of such person exceeds ninety-one days and such combined contributions, when added to any contributions made with respect to him prior to such period of service, provide less than fifteen weeks' benefit upon discharge, there shall be credited to the Fund for such purpose contributions in an amount sufficient to provide fifteen weeks' benefit for such person upon his discharge.

### *Special Rule Regarding Contributions*

190. (1) Subject to subsection (2), where the average of the weekly contributions paid under the old Act with respect to any period is as



shown in column 1 in the table hereunder, such average shall be deemed to be the average shown in column 2 opposite that in column 1.

TABLE

Column 1	Column 2
Less than.....27¢	Less than.....20¢
27¢ and under..33¢	20¢ and under..27¢
33¢ and under..39¢	27¢ and under 33¢
39¢ and under..45¢	33¢ and under..39¢
45¢ and under..51¢	39¢ and under..45¢
51¢ and over...	45¢ and under..50¢

(2) Where in any case there are eight or more weekly contributions subsequent to October 1, 1955, and the average of such contributions is higher than the average of the contributions prior to that date, the average to be taken into account shall be that only of the contributions subsequent to October 1, 1955. (Section 190 amended by P.C. 1955-1900.)

## Part VII

### FISHERMEN'S REGULATIONS

(Added by P.C. 1957-446, effective April 1, 1957, and amended by P.C. 1957-1597, effective December 1, 1957 and by P.C. 1958-1595, effective Nov. 30, 1958.)

#### *Definitions*

191. (1) For the purposes of this Part:

- (a) "actual employer" means a person who employs a fisherman under a contract of service;
- (b) "buyer" means a person who buys a catch to resell it either in the same form or after processing, and not to use it as food, feed or bait;
- (c) "catch" means, subject to subsection (2) for portions of a catch or several catches together, the unprocessed catch or harvest of any product of the sea or of any other body of water, made by a crew, including Irish moss and kelp, whales, seals but only if caught by a crew engaged under a contract of service for that purpose, and the natural by-products other than fish scales sold as such, of any product, and a catch shall be:
  - (i) "fresh", if it is neither "cured" nor processed, and
  - (ii) "cured", only if it is described in the divisors enumerated in paragraph (a) of subsection (7) of section 200;
- (d) "crew" means, subject to subsection (3) in respect of an actual employer being a member of a crew, any group of fishermen who generally engage in a catch together or who, if not generally, have actually engaged in a given catch together; and in the case of a lone fisherman, "crew" or "member of a crew", as the context may require, shall be taken to mean that lone fisherman;

- (e) "employer" means a person designated as the employer of a fisherman pursuant to section 195, whether he is the actual employer or not;
- (f) "fisherman" means a person engaged, other than for his own or someone else's sport, in making a catch or in any work incidental to making or handling a catch, whether such work consists in loading, unloading, transporting or curing the catch made by the crew of which he is a member, or in preparing, repairing, dismantling or laying-up the fishing vessel or fishing gear used in such catch by that crew, provided that any person engaged in any such incidental work is also engaged in making the actual catch itself; but a person shall not be considered to be engaged in making the actual catch if he is paid wages only and that exclusively or almost exclusively for baiting a trawl or for emptying a weir or for any similar isolated activity in connection with a catch;
- (g) revoked by P.C. 1958-1595.

(2) "Catch" shall mean further, in the case of only a portion of the catch being delivered, that portion delivered and, in the case of a delivery of more than one catch or portions of more than one catch at a time, the catches or portions thereof delivered at that time.

(3) An actual employer whose engagement in a catch with a crew generally consists in work ashore only, shall not be considered to be a member of that crew at any time.

(4) Nothing in this Part shall have for effect to make any person an insured person with respect to any catch for which that same person is responsible as an employer under this Part.

(5) Any reference in this Part to a section by number, shall, unless otherwise indicated, refer to a section of the Regulations.

#### *Application of Act and Other Parts*

192. The provisions of the Act and of the other Parts of these Regulations, unless modified by the provisions of this Part, shall apply *mutatis mutandis*, to the employment or engagement of a fisherman to the extent required for the provision of unemployment insurance coverage and benefit for fishermen in accordance with the principles of the Act and these Regulations. (As amended by P.C. 1957-1597, effective December 1, 1957.)

#### *Extension of Coverage to Fishermen*

193. Employment or engagement as a fisherman, which would otherwise be excepted under the provisions of paragraphs (b), (c), (n) or (q) of section 27 of the Act, shall be included in insurable employment and a fisherman shall, notwithstanding the provisions of paragraph (a) of section 25 of the Act, be an insured person in respect of his employment or engagement as a fisherman.

#### *Inconsiderable Employment May Be Excepted*

194. (1) The provisions of paragraphs (a), (b), (c) and subparagraph (vii) of paragraph (e) of subsection (1) of section 75 and of paragraph (h) of section 76 shall not apply to a fisherman.

(2) The provisions of subsection (1) of section 75 shall further apply to a fisherman who is employed or engaged as a fisherman:

(a) in the Yukon or in the Northwest Territories, or

(b) for not more than an aggregate of twenty weeks in any calendar year.

(3) Where a fisherman, to whom paragraph (b) applies, has lodged a declaration in writing with his employer as required by subsection (1) of section 75 and his employment or engagement as a fisherman exceeds such twenty weeks, he shall be in insurable employment in respect of such employment or engagement from the time he exceeds such number of weeks and shall continue in insurable employment for the remainder of the calendar year so long as he remains so employed or engaged.

#### *Determination of Employer of a Fisherman*

195. (1) The employer of a fisherman for all the purposes of the Act and Regulations shall be the person determined in accordance with this section and no other, except that subsections (1) and (2) of section 96 and paragraph (d) of section 115, of the Act, shall apply to the actual employer as well.

(2) The actual employer of any member of a crew shall be the employer of that crew at all times if he is not himself a member but if he is himself a member he shall be the employer of that crew only in the following cases:

(a) with respect to a catch by the crew,

(i) which is sold fresh or cured to a person who is not a buyer or to a buyer who is not the employer under subsection (3), or

(ii) which is not sold fresh or cured; and

(Amended by P.C. 1957-1597, effective Dec. 1, 1957 and by P.C. 1958-1595, effective Nov. 30, 1958.)

(b) with respect to any calendar week during which no catch is made, provided that where in the case of catching other than by weir, such week occurs during the season for that type of catching, he shall be the employer only if the employer registered as such with the Commission, pursuant to section 196, before this week occurs,

and, for the purpose of applying this subsection in a case where the actual employer is a partnership or coadventure, the actual employer shall be considered to be a member of the crew where a member of the partnership or coadventure is a member of the crew, and not to be a member of the crew if no member of the partnership or coadventure is a member of the crew.

(3) Where a fresh or cured catch is delivered in Canada to a buyer or his agent by a person who declares that he is a member of the crew that made the catch and that his actual employer, if any was also a member of that crew, the buyer shall be the employer of the members of that crew who are declared to share in the returns of that catch whether by way of wages or otherwise. (Amended by P.C. 1958-1595, effective Nov. 30, 1958.)



(4) Where a catch is delivered to a buyer who is not the employer under subsection (3) or to a person who is not a buyer and no false declaration is established under subsection (7), the actual employer of the crew shall be its employer; where there is no such person, the employer shall be the head fisherman of the crew and where there is no head fisherman, the agent for selling the catch of the crew, but neither person shall be the employer unless the gross returns of the catch are paid to such person. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(5) Where there is a common agent acting at the same time for both a crew and a buyer, that agent shall be the employer of such crew instead of any other person, but shall, notwithstanding anything in the Act or these Regulations, have the right to recover from the buyer the employer's share of contributions paid by the agent.

(6) Notwithstanding any of the foregoing subsections, where a buyer pays the wages of a member of a crew employed by an actual employer, whether or not such wages are paid to that member or his family directly by such buyer or through the actual employer, such buyer shall, in respect of the period covered by such wages, be the employer of such member and of his actual employer if the latter is also a member of that crew. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(7) Where it is established to the satisfaction of an officer of the Commission that the person required to make any declaration enumerated in subsection (1) of section 203, hereinafter referred to as the "declarant", failed to make the declaration as therein required or made it falsely, the declarant shall

- (a) be deemed to be the employer of all the members of the crew;
- (b) if he is the employer of the crew under this subsection only, be exempt from the application of section 197; and
- (c) notwithstanding section 38 of the Act, be not entitled to recover in any manner from anyone contributions paid or payable on behalf of such members of the crew.

(Amended by P.C. 1958-1595, effective Nov. 30, 1958.)

#### *Employer's Registration*

196. Every person who becomes an employer of an insured fisherman pursuant to subsections (1) to (6) of section 195 shall apply within three days to the Commission for a registration number and a licence to purchase fishing stamps and the provisions of section 77 do not apply to such a person. (Section amended by P.C. 1957-1597, effective Dec. 1, 1957.)

#### *Records Required to be Kept by Employers and Buyers*

197. (1) Subject to subsection (2), section 79 applies to every employer of a fisherman and every buyer, but shall be varied to the extent that such records shall contain all particulars required of that employer or buyer by this Part

- (a) for determining whether contributions are payable by that employer or buyer,
- (b) for determining and allocating the earnings and for recording contributions therefor, including particulars of any declaration of the declaration itself used in this connection, and
- (c) for determining the time for the payment of such contributions.

(2) Every employer of fishermen and every buyer shall keep and maintain his books, records, accounts and documents in respect of his insured fishermen separately from those in respect of other insured persons and make them available for inspection. (Amended by P.C. 1957-1597 effective Dec. 1, 1957 and by P.C. 1958-1595 effective Nov. 30, 1958.)

### *Insurance Cards*

198. An employer who has obtained an insurance card under section 82 shall not give such to a fisherman unless it is fastened to and inserted in an insurance book; where such card is not so fastened and inserted, the employer shall forward the card to the nearest Local Office of the Commission.

### *Determination of Earnings*

199. (1) The determination of the earnings of an insured fisherman shall be made only as provided in this section; and sections 84 to 93 inclusive shall not apply to a fisherman unless specifically provided.

(2) The earnings of an insured fisherman that amount to less than \$9 in respect of any calendar week to which they are allocated under section 200 shall not be taken into account for the purposes of this section. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(3) Subject to sections 84 to 88, where the employer of an insured fisherman is his actual employer the fisherman's earnings shall be his remuneration, whether pecuniary, non-pecuniary, or partly pecuniary, and for the purpose of this subsection

(a) the consideration mentioned in section 85 includes any boat or gear share; and

(b) berth or food supplied when afloat shall not be taken into account. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(4) Where the employer of an insured fisherman is a buyer other than one described in subsection (7) or is the common agent described in subsection (3) of section 195, the earnings of that fisherman shall be the resultant obtained by dividing

(a) the amount remaining after subtracting from the gross returns of the catch

(i) the value of any portion of the catch declared by the person making the delivery as not caught by the crew, and

(ii) twenty-five per cent of the amount remaining after subtracting from the gross returns of the catch the amount described in subparagraph (i),

by

(b) the number of members of the crew who are declared to share in the returns of the catch either by way of wages or otherwise,

and, where his wife shares as a member of the crew, by adding to the resultant the earnings attributable to her.

(5) For the purpose of applying subparagraph (i) of paragraph (a) of subsection (4) the value of any portion of the catch not caught by the crew shall be the amount established by

- (a) the head fisherman or the agent for selling the catch of a crew, where he is the employer, and
- (b) the officer mentioned in subsection (7) of section 195, where the declarant is the employer.

(Subsections (4) and (5) amended by P.C. 1958-1595, effective Nov. 30, 1958.)

(6) Where a buyer, upon delivery of a catch, pays an insured fisherman or credits him with amounts less than the current market value of the catch, the gross returns for that catch, for the purpose of applying subsection (4), shall be set by the employer, to the best of his ability, at the then-current market value of the catch.

(7) Where the employer of an insured fisherman is a buyer who pays wages in the manner described in subsection (6) of section 195,

- (a) the earnings of members of the crew shall, subject to sections 84 to 88, be the amount of the wages so paid to them, and
- (b) the earnings of the actual employer, if any, who is a member of a crew shall, for any week in respect of which wages were so paid to his crew, be deemed to be the greater of
  - (i) the amount obtained by deducting from the gross returns of the catches made by his crew during the fishing season, the wages paid by the buyer to his crew, and 25 per cent of the gross returns, or
  - (ii) \$39.00.

(Amended by P.C. 1957-1597 effective Dec. 1, 1957 and by P.C. 1958-1595, effective Nov. 30, 1958.)

#### *Allocation of Earnings and Recording of Contributions*

200. (1) The earnings of an insured fisherman shall be allocated to, and contributions payable therefor recorded for, the calendar weeks determined pursuant to this section; unless specifically provided otherwise, sections 94 to 99 inclusive shall not apply.

(2) Where the employer of an insured fisherman is his actual employer, or a buyer who pays wages under subsection (6) of section 195, the earnings of such fisherman shall be allocated to, and contributions recorded for, the calendar weeks provided under sections 94 to 99, except paragraph (a) of subsection (1) of section 97. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(3) Where in the case of a fresh catch the employer of an insured fisherman is a person other than described in subsection (2), the earnings of the fisherman from that catch shall be allocated to, and contributions recorded for, the calendar week in which delivery of the catch is made, except as provided in subsections (4), (5) and (6).

(4) Where the employer of a crew is a buyer of a fresh catch who knows

- (a) that the catch was made on a fishing trip that lasted more than seven consecutive days,



- (b) that the collector who regularly makes a collection from that crew each calendar week took delivery of a catch in the next calendar week, or
- (c) that a particular delivery of lobsters represents more than a calendar week's catch,

he shall with respect to that catch allocate the earnings equally to two calendar weeks where such allocation will not result in any fisherman's earnings in respect of that catch being less than \$9.00 for each calendar week, and shall record the contributions for the first of these weeks, for the calendar week in which delivery is made, and the second, for the immediately previous calendar week.

(5) Where a fresh catch is delivered to a buyer who is the employer of an insured member of the crew which made the catch and the employer keeps records sufficient to enable an inspector of the Commission to determine the period during which the crew was engaged in that catch only, the employer shall allocate the earnings with respect to that catch equally among the number of calendar weeks which fall either completely or in part during such period, which will result in that fisherman's earnings not being less than \$9.00 for each such calendar week, and the contributions payable shall be recorded for these weeks, the first for the calendar week in which delivery is made and the others for the immediately previous calendar weeks in consecutive order from that week.

(6) Where a buyer settles his accounts with an insured fisherman of whom he is the employer, at intervals greater than seven consecutive days and such settlement is in respect of fresh catches delivered over a period greater than a calendar week, the employer may, instead of applying subsection (3), (4) or (5) allocate the earnings from the catches covered by such settlement, remaining after having excluded the earnings from any week in which the earnings were less than \$9.00, equally among the weeks, which fall completely or in part during the period covered by such settlement, in which the earnings were \$9.00 or more and shall record contributions for the calendar weeks the earnings of which were not excluded.

(7) Where in the case of a cured catch the employer of an insured fisherman is a person other than described in subsection (2), the earnings of the fisherman from that catch shall be allocated and contributions recorded as described hereunder.

(a) the number of contributions payable shall be determined as follows:

- (i) the quantity of the catch after deducting therefrom any portion not caught by that crew shall be divided by the number of the members of the crew who are declared to share in the returns of the catch whether by way of wages or otherwise, the quantity attributable to the wife of a fisherman who shares as a member of the same crew not being attributed to her; and
- (ii) the quantity attributed to each fisherman shall then be divided by the proper divisor in the Table hereunder and if the division by this divisor results in a fraction, the fraction shall be taken as one if it is one-half or more and otherwise shall be disregarded, the result being the

number of contributions payable for that insured fisherman with respect to that portion of the catch to which that divisor was applied; where this cured catch consists of types of fish to which more than one divisor has had to be applied, the number of contributions payable resulting from each such divisor shall be aggregated.

(Paragraph (a) amended by P.C. 1958-1595, effective Nov. 30, 1958.)

TABLE OF DIVISORS

Nature of Cured Fish	Divisor
(a) Salted groundfish:	
(i) Extra dry (Gaspé cure).....	2 cwt
(ii) Dry (including slack or light salted and heavy salted).....	3 cwt
(iii) Semi-dry.....	4 cwt
(iv) Ordinary cure.....	5 cwt
(v) Wet salted.....	6 cwt
(b) Smoked herring (bloaters).....	270 lbs. or 15
Included hard-cured smoked round herring.	boxes of 18 lb.
(c) Pickled herring, and mackerel (excluding fillets).....	each
Includes: gibbed, mild-cured herring (Scotch type, etc.), drawn	3 barrels or 660
pickled herring (lean or fat), marinated dressed herring (vinegar	lbs.
cured), split pickled mackerel (spring, summer or fall), pickled	
filleted mackerel (summer or fall.)	
(d) Pickled herring (filleted) and turbot.....	2 barrels or 440
Includes any marinated filleted herring (skin on or off) or pickled	lbs.
turbot.	
(e) Pickled alewives.....	6 barrels or 1,320
Includes any pickled or salted alewives.	lbs.
(f) Pickled salmon, trout and mackerel fillets.....	1 barrel or 200
(g) Other pickled products.....	lbs.
Includes any other fish product cured by the fisherman before sold	3 barrels or 660
(h) Cod oil.....	lbs.
(i) Cod livers.....	5 drums or
	225 gallons
	15 drums or
	675 gallons

(Table amended by P.C. 1957-1597, effective Dec. 1, 1957 and by P.C. 1958-1595, effective Nov. 30, 1958.)

- (b) the rate of contributions payable shall be ascertained by dividing the earnings of the fisherman by the number of contributions payable in respect of him;
- (c) the contributions payable shall be recorded for calendar weeks in the period from the week in which delivery is made to the week in which the immediately previous May 1st falls, both weeks inclusive,
  - (i) the first, for the calendar week in which delivery of the catch is made and all the others in the next most recent weeks in order of recency, but in no case in any week in which an employee's share of contributions exceeding 8 cents has already been recorded;

- (ii) any contributions payable which cannot be recorded pursuant to subparagraph (i) shall be recorded in the same manner as in that subparagraph irrespective whether any contribution has already been recorded for the particular week;
- (iii) where contributions have been recorded in all the spaces in the insurance book or card provided for weeks during that period, another book or card shall be used for the same purpose in the same manner.

(8) Where in a case described in subsection (7), the cured catch consists entirely of wet salted groundfish within the meaning of subparagraph (v) of paragraph (a) of the Table of Divisors provided in that subsection, the employer, in respect of the earnings therefrom of an insured fisherman, shall apply subsection (5) instead of subsection (7).

(9) Where a fresh catch is delivered at the same time as a cured catch to which subsection (7) is to be applied, the contributions to be recorded with respect to the fresh catch shall be recorded first.

(10) Section 105 applies only where an actual employer or a buyer who pays wages as described in subsection (6) of section 195 is the employer of a fisherman. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

*Inadequate Records—Computation of Contributions at Three per cent*

200A. (1) Where contributions are payable by an employer of fishermen, section 130 shall apply only to

- (a) contributions payable by their actual employer, or
- (b) contributions payable in respect of members of a crew employed by an actual employer, where their employer is the buyer who pays their wages.

(2) Where an inspector is of the opinion that the books, records, accounts and documents of an employer of fishermen or a buyer are not adequate for the purpose of enabling the inspector to determine with reasonable facility, according to the Act and these Regulations, other than this section, what contributions, for what periods and on what dates they were payable and on what date they were paid by that employer or buyer for any period in respect of any or all of the insured fishermen employed by the employer or dealing with the buyer, the inspector shall,

- (a) determine, in respect of the fishermen for whom such books, records, accounts and documents are in his opinion adequate, the contributions payable according to the Act and these Regulations, other than this section; and
- (b) determine, in respect of the fishermen for whom such books, records, accounts and documents are in his opinion inadequate, the contributions payable by multiplying by three per cent the earnings of each fisherman, of \$9.00 or over but not exceeding, subject to subsection (7) of section 199, \$60 in a week, for each week of the period.

(3) Where in the opinion of the inspector the books, records, accounts and documents are inadequate for the purpose of so determining the earnings of the fishermen, the inspector shall determine the



contributions payable in the manner set out in paragraph (b) of subsection (2), after estimating

- (a) the period covered by the catches of the fishermen concerned,
- (b) the nature and quantity of a cured catch,
- (c) the number of weeks where the fishermen's earnings are less than \$9.00,
- (d) the number of fishermen involved, and
- (e) the earnings of each fisherman of \$9.00 and over but not exceeding, subject to subsection (7) of section 199, \$60 in a week, for each week in the period.

(4) The aggregate earnings of all fishermen so estimated shall not exceed the gross returns of all the catches during the period, after deducting therefrom the amounts in subsection (4) of section 199.

(5) An inspector in computing or estimating the total earnings to which the three per cent is to be applied, shall exclude therefrom any earnings which he is satisfied have been paid or become payable for the period to any fisherman

- (a) who is not insured; or
- (b) in respect of whom the books, records, accounts and documents were adequate.

(6) Notwithstanding subsection (2) and (3) an inspector may, on the first inspection of the books, records, accounts and documents of an employer or buyer, determine the contributions payable by the employer or buyer for any period, by applying the provisions of the Act and the other Regulations to the earnings paid or payable to the insured fishermen employed by the employer or with whom the buyer has dealt, during that period, established on the basis of oral information or written declaration, where the employer or buyer

- (a) has not previously been sent a request to keep adequate books, records, accounts and documents,
- (b) agrees to keep adequate books, records, accounts and documents in the future,
- (c) agrees to make immediate payment of the contributions owing that the inspector may establish on the basis of the oral information or written declaration, and
- (d) has, in the inspector's opinion, acted in good faith.

(Section added by P.C. 1958-1595, effective Nov. 30, 1958.)

#### *Methods of Payment*

201. (1) In applying subparagraph (i) of paragraph (d) of section 100, and section 101, a special fishing stamp shall be used to record the contributions in respect of an insured fisherman instead of the stamps provided for other employment.

(2) Subparagraph (ii) of paragraph (d) of section 100, subsection (2) of section 107, and section 102 shall not apply to payments of contributions in respect of an insured fisherman.

#### *Time for Payment of Contributions*

202. (1) Sections 110 and 111 shall not apply to the employer of a fisherman, except as provided in the following subsections.

(2) Sections 110 and 111 apply where the employer of a fisherman is his actual employer or a buyer who pays the wages as described

in subsection (6) of section 195 and where the buyer described in subsection (6) of section 195 is the employer of an actual employer, "pay day" for the latter means the date on which the net returns from a catch or catches during the fishing season are determined pursuant to subsection (7) of section 199. (Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957.)

(3) Where the employer is a declarant pursuant to subsection (7) of section 195, contributions shall be paid by him within three days of the date upon which he is notified by an officer of the Commission that he is the employer.

(4) Where, pursuant to subsection (4) of section 195, the head fisherman or the agent for selling the catch of a crew is the employer, contributions shall be paid within three days after the calendar week in which such employer is paid the returns of the catch.

(5) Where the employer of a fisherman is the buyer described in subsection (6) of section 200, he shall pay contributions within three days after the calendar week in which the gross returns of the catch or catches are known by him or, where allocation of earnings is made pursuant to that subsection, within three days after the calendar week in which settlement is made but in neither case later than November 30th for all deliveries before that date and where the gross returns of the catch or catches are not known before that date, they shall be set by the employer, to the best of his ability, at the market value of the catch at the time delivered.

(6) Every other employer of a fisherman shall pay contributions within three days after the calendar week in which delivery of the catch is made.

(7) When it is clear that an employer's regular dealings with a given fisherman have ceased, sections 93 and 111 shall apply as if a separation had taken place.

#### *Declaration to the Buyer*

203. (1) The person who delivers a catch in Canada to a buyer or his agent shall at the time of delivery declare to the buyer or his agent the following particulars in the order listed below:

- (a) that he is a member of the crew making the catch;
- (b) that his actual employer, if any, is also a member of that crew;
- (c) that the wages, if any, of members of that crew are paid by the actual employer alone and not by a buyer who pays the wages directly or indirectly to individual crew members and charges them to the actual employer's account;
- (d) that at least a portion of the catch was caught by members of that crew;
- (e) the names and insurance numbers of the members of the crew who share in the returns of the catch whether by way of wages or otherwise;
- (f) the portion of the catch, if any, that was caught by a person who was not a member of the crew at the time that portion was caught; and
- (g) the name of any crew member sharing in the returns whether by wages or otherwise, who is the wife of another member of the same crew who also shares in the returns;

and where any one of the statements contained in paragraphs (a), (b), (c) or (d) cannot be made truthfully by the declarant, he shall not be required to proceed further with the declaration.

(Subsection amended by P.C. 1957-1597, effective Dec. 1, 1957 and by P.C. 1958-1595, effective Nov. 30, 1958.)

(2) Any declarant who declares contrary to his knowledge any particular listed in subsection (1), or who, knowing the correct information required by that particular, fails to declare it as required by that subsection, and any person with respect to whom benefit or contribution payments are affected as a result of such declaration, who knows the declaration was not made as required and does not inform the Commission of what he knows as soon as he so knows, shall, regardless of the intent of either of the above persons in the above regards,

- (a) be liable to be declared by an insurance officer to be disqualified in the manner described in section 65 of the Act;
- (b) be a person described in section 107 of the Act; and
- (c) be, in respect of contributions paid in connection with the above, a person to whom section 116 shall not apply.

#### *Contributions for Purposes of Benefit*

204. Contributions payable and paid under this Part shall be taken into account in accordance with these Regulations for the purposes of determining qualification for benefit or for the rate or duration of benefit, only in those claims where the benefit period commences not earlier than the week in which December 1, 1957 falls. (Section amended by P.C. 1957-1597, effective Dec. 1, 1957.)

#### BENEFITS

(Sections 205, 206, 207, 208, 209, added by P.C. 1957-1597, effective Dec. 1, 1957. Section 210 added by P.C. 1958-1595, effective Nov. 30, 1958.)

#### *Designated Fishermen*

205. (1) Where an insured person makes an initial claim for benefit and has five or more fishing contribution weeks as defined in subsection (1) of section 207 during the period comprising the fifty-two calendar weeks immediately preceding the calendar week in which he makes that claim, he shall be considered as a "designated fisherman" for the purposes of sections 205 to 209.

(2) Where an extension of the qualifying periods has been established in respect of the period comprising the fifty-two calendar weeks mentioned in subsection (1), that period shall be increased by the aggregate of any time for which an extension has been established.

#### *Year-round Fishermen*

206. (1) For the purposes of sections 205 to 209 a "year-round fisherman" means a designated fisherman who has not the number of contribution weeks required by section 45 of the Act exclusive of his fishing contribution weeks that fall within the period mentioned in section 205 of these Regulations and who establishes:

- (a) that his most recent employment in fishing whether insurable or not, during the period comprising the fifty-two most recent



calendar weeks immediately prior to his initial claim for benefit, was on a vessel that, in the opinion of the Commission,

- (i) ordinarily carried on fishing operations at all times of the year, and
  - (ii) employed the members of the crew either under a contract of service or under conditions so similar thereto that there is a comparable degree of control, the members having no actual control over their employment and unemployment and the circumstances concerning their separation from employment being readily verifiable, and
- (b) that he has at least six fishing contribution weeks in each of any four consecutive calendar quarters during the period of the most recent seven complete calendar quarters immediately prior to the calendar quarter which includes the week in which he makes that initial claim for benefit and for the purposes of this paragraph the most recent calendar quarter shall end with its most recent complete calendar week.

(2) Where if it is found that the separation of a year-round fisherman from his most recent employment in fishing, whether insurable or not, and whether during or prior to his benefit period was not from a vessel that in the opinion of the Commission meets the requirements set forth in subsection (1) or was from such a vessel but not by reason of a lay-off due to lack of work, he shall be disqualified from benefit during that benefit period, except during any period falling within the seasonal benefit period beginning with the calendar week in which December 1st falls and ending with the calendar week in which May 15th next following falls.

(3) A year-round fisherman disqualified under subsection (2) may be relieved from such disqualification as from the calendar week in which he establishes

- (a) that he has, subsequent to the commencement of that benefit period, lost his most recent employment in fishing, whether insurable or not, from a vessel described in paragraph (a) of subsection (1) and that such loss was by reason of a lay-off due to lack of work; or
- (b) that he has seven or more non-fishing contribution weeks in any period of thirteen consecutive calendar weeks subsequent to the commencement of that benefit period.

#### *Fishing Contribution Weeks*

207.(1) A "fishing contribution week" means a calendar week in respect of which contributions are payable and paid under this Part, whether or not contributions are payable and paid under provisions other than in this Part in respect of that week.

(2) The fishing contributions weeks of a designated fisherman which fall within the period mentioned in section 205 shall not be contribution weeks for the purposes of subsections (1) and (2) of section 45 of the Act unless he has become a year-round fisherman.

(3) The fishing contribution weeks mentioned in subsection (2) shall, for all other purposes under the Act or these Regulations, be considered as contribution weeks.

(4) All other fishing contribution weeks shall be considered as contribution weeks for all purposes under the Act or these Regulations.

*Unemployment of Fishermen*

208. (1) Except as provided in this section, the provisions of section 155 do not apply to claimants who are employed or engaged in fishing, whether insurable or not. (Amended by P.C. 1958-1595, effective Nov. 30, 1958.)

(2) Subject to subsection (5), any claimant who is mainly self-employed in fishing, whether insurable or not, or engaged in his own account or in a partnership or coadventure, or any claimant who is mainly employed in fishing, whether insurable or not, in an employment in which he controls his working hours, shall not be considered as unemployed during any period in respect of which he remains so engaged or employed.

(3) Any claimant who is self-employed in fishing to a minor extent only, whether insurable or not, or whether engaged on his own account or in a partnership or coadventure, or any claimant who is employed in fishing to a minor extent only, whether insurable or not, or whether or not he controls the working hours of his employment, shall be considered as unemployed during any period in respect of which he remains so engaged or employed.

(4) Subject to subsection (5), the provisions of section 155 apply to a claimant who is employed in fishing, whether insurable or not, under a contract of service, or under any other similar contract, in an employment in which he does not control his working hours. (Amended by P.C. 1958-1595, effective Nov. 30, 1958.)

(5) Except for the purposes of section 150, a claimant shall, notwithstanding the provisions of sections 54 and 57 of the Act and subsections (2) and (4) of this section, be considered as unemployed and available for work in respect of his employment or engagement in fishing, whether insurable or not, during the seasonal benefit period mentioned in subsection (2) of section 206.

(6) For the purposes of this section, a person who is ordinarily a fisherman shall not cease to be considered a fisherman where he is engaged in any of the incidental work mentioned in sub-paragraph (f) of subsection (1) of section 191 without at the same time participating in an actual catch.

*Determination and Allocation of Earnings*

209. (1) The determination and allocation of earnings for the purposes of section 56 of the Act of a claimant who is employed or engaged in fishing, whether insurable or not, while claiming benefit, shall be made in accordance with this section and the provisions of sections 172, 173, 199 and 200 of these Regulations shall not apply except as provided in this section.

(2) Where the claimant has any earnings from fishing, whether insurable or not, from an actual employer, or wages from a buyer under subsection (6) of section 195, or any earnings other than from fishing, such earnings shall be determined in accordance with section 172 and allocated as provided under section 173.

(3) Where a claimant has any earnings as an actual employer of a member of a crew under subsection (7) of section 199, his earnings shall

be the gross returns of the catches made by the members of his crew, minus

- (a) the wages paid to them by the buyer that are charged to the actual employer's account, and
  - (b) twenty-five per cent of the gross returns,
- and shall be allocated equally to each calendar week in respect of which the wages were paid by the buyer to the members of the crew.

(4) Where the claimant is self-employed in fishing, whether insurable or not, his earnings shall be his share of the gross returns of a catch minus twenty-five per cent of the gross returns, and shall be allocated

- (a) equally to the calendar weeks in which he performed the work to obtain the earnings, where the catch is fresh; and
- (b) to the calendar week in which delivery of the catch is made, where the catch is cured.

(Subsections (3) and (4) amended by P.C. 1958-1595, effective Nov. 30, 1958.)

(5) A claimant's gross returns of a catch shall, for the purposes of this section, include the gross returns from the sale of any product of the sea or of any other body of water, or of any by-product of any such product, whether or not the purchaser is a buyer as defined under this Part.

(6) Where, from the gross returns of a catch, the share of the wife of an insured fisherman is assigned to her husband under section 199, such shall be considered as the husband's earnings, and for the purposes of subsection (2) of section 168 it shall not be considered as income of the claimant's wife.

### Labour Disputes

210. (1) For the purposes of the Act and these Regulations, a labour dispute shall, in relation to fishermen, include any dispute between employers of fishermen and fishermen or between fishermen and fishermen, that is connected with the unit price from which the returns of a catch are calculated.

(2) Where there arises a labour dispute as to the unit price from which the returns of a catch are calculated or a labour dispute concerning any other matter and affecting a type of fishing generally and as a consequence thereof a particular type of fishing is not begun or is not carried on further,

- (a) subsection (1) of section 63 of the Act shall apply in such a manner that any fisherman holding a federal or provincial government fishing licence for that type of fishing for the current calendar year or the immediately preceding calendar year shall be deemed to be an insured person who has lost his employment by reason of a stoppage of work attributable to a labour dispute at the factory, workshop or other premises at which he was employed, unless at the time the stoppage of work commenced and during the six weeks immediately preceding the stoppage, he was *bona fide* regularly engaged in some occupation other than fishing, and
- (b) the provisions of subsections (2) and (3) of section 63 of the Act shall not apply to that fisherman.

(Section added by P.C. 1958-1595, effective Nov. 30, 1958.)



## Schedule

### AGREEMENT BETWEEN CANADA AND THE UNITED STATES RESPECTING UNEMPLOYMENT INSURANCE

#### *Article I*

- (a) In this agreement, unless the context otherwise requires,
- (i) "agency" means any officer, board, commission or other authority designated by an Unemployment Insurance Law in force in any state or in Canada to administer the Unemployment Insurance Fund for which provision is made by such Unemployment Insurance Law;
  - (ii) "state" means any state of the United States of America, the territories of Alaska and Hawaii, and the District of Columbia;
  - (iii) "Federal Agency" means the agency authorized to administer those provisions of the laws of the United States of America which relate to the Federal-State unemployment insurance program;
  - (iv) "jurisdiction" means any state or Canada.
- (b) Services performed by an individual for an employer shall be deemed to be localized within a jurisdiction if
- (i) such services are performed entirely within such jurisdiction, or
  - (ii) such services are performed both within and without such jurisdiction, but the services performed without such jurisdiction are incidental to the individual's services performed within such jurisdiction, for example, are temporary or transitory in nature or consist of isolated transactions.

#### *Article II*

This agreement shall not be applicable to employment with respect to which contributions are payable under the Railroad Unemployment Insurance Act of the United States of America or to the periods of unemployment with respect to which benefits are payable under that Act.

#### *Article III*

The Government of the United States of America agrees that the Federal Agency will recommend to each of the states that it carry out the provisions herein contained and Canada agrees to carry out such provisions: Provided that if any state does not substantially carry out any such provisions, the Unemployment Insurance Commission of Canada may suspend the operation of such provisions with reference to such state.

#### *Article IV*

- (a) An individual's entire services for an employer in insurable employment as defined in the unemployment insurance law of a jurisdiction will be insured under the unemployment insurance law of such jurisdiction in respect of services performed by him within, or both within and without such jurisdiction if
- (1) his services are localized in such jurisdiction, or

- (2) his services are not localized in any jurisdiction but some of his services are performed in such jurisdiction, and
  - (i) his base of operations, or if he has no base of operations, the place from which his services are directed or controlled is in such jurisdiction, or
  - (ii) his base of operations or the place from which his services are directed or controlled is not in any jurisdiction in which some of his services are performed, but his residence is in such jurisdiction.
- (b) If clauses one and two of paragraph (a) of this article do not apply with respect to an individual's services, the agency of any jurisdiction may approve, subject to such conditions as it may prescribe or as may be prescribed by its unemployment insurance law, an election by such individual's employer pursuant to which such individual's entire services for that employer shall be deemed to be insured employment under the unemployment insurance law of such jurisdiction.

#### *Article V*

The agency of any jurisdiction may perform services for the agency of any other jurisdiction in the taking and development of any claim for benefits by an individual absent from such latter jurisdiction and desirous of claiming benefits under the unemployment insurance law of such jurisdiction.

#### *Article VI*

To avoid the duplication of unemployment insurance payments with respect to the same period of unemployment, the order in which an individual who has benefit rights under the unemployment insurance laws of two or more jurisdictions shall exhaust or otherwise terminate his rights to benefits shall be determined jointly by the Federal Agency of the United States of America and the Unemployment Insurance Commission of Canada in such manner as to be reasonable and just as between all affected interests.

#### *Article VII*

This agreement may be amended by mutual arrangement evidenced by an exchange of notes between the two Governments, and may be terminated by either Government after sixty days' notice to the other Government.

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